

# MAINE STATE LEGISLATURE

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# LEGISLATIVE RECORD

OF THE

**One Hundred And Sixteenth Legislature**

OF THE

**State Of Maine**

**VOLUME IV**

**FIRST REGULAR SESSION**

**Senate**

May 19, 1993 to July 14, 1993

**FIRST CONFIRMATION SESSION**

October 14, 1993

Reading of the Journal of Monday, May 24, 1993.

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

Off Record Remarks

In Senate Chamber  
Tuesday  
May 25, 1993

SECOND READERS

Senate called to Order by the President, Dennis L. Dutremble of York.

The Committee on Bills in the Second Reading reported the following:

House As Amended

Prayer by the Honorable Charles E. Summers of Cumberland.

Bill "An Act Related to Medical Treatment Decisions for Psychotic Disorders"  
H.P. 983 L.D. 1314  
(C "A" H-392)

**SENATOR CHARLES E. SUMMERS:** Thank you Mr. President. I would like to offer a prayer that is a favorite prayer of my wife's.

Resolve, to Expand the Scope of the Maine Committee for Global Education  
H.P. 1111 L.D. 1507  
(C "A" H-379; H "A" H-394)

Thank you, God, for a hundred things -  
For the flower that blooms, for the bird that sings,  
For the sun that shines,  
And the rain that drops,  
For ice cream and raisins and lollipops.

Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**, in concurrence.

Thank you, God, for the gift of time -  
For the clocks that tick, and the bells that chime,  
For days gone by,  
And future cheers,  
For seasons, and moments, and hours and years.

Bill "An Act Regarding Certain Property of the Department of Mental Health and Mental Retardation"  
H.P. 250 L.D. 329  
(C "A" H-389)

Thanks for the people who give life pizzazz -  
For folks who play sports, those who act and play jazz,  
For friends and for families,  
For folks of all races,  
For hands that give help and for bright smiling faces.

Which was **READ A SECOND TIME**.

Thanks for the planet you give as our home -  
For the sky with its clouds, for the oceans' white foam,  
For the creatures and critters,  
The lakes, falls and fountains,  
For the hills and for valleys, for canyons and mountains.

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

Thank you, God, for the gift of your Son -  
For the love Jesus shared, for the battle he won  
Over death, for the promise  
That he would be near  
To lead and to guide and to hold us so dear.

Senate As Amended

Bill "An Act to Enact a New Article on Negotiable Instruments in and to Make Necessary Conforming Amendments to the Uniform Commercial Code"  
S.P. 129 L.D. 381  
(C "A" S-191)

Thank you, God, for a hundred things -  
For autumn and pumpkins, for dragonfly wings,  
For Thanksgiving dinners,  
For seashores and shore,  
For a hundred things, and a thousand things more!

Bill "An Act to Make Provisions of the Maine Human Rights Act Consistent with Federal Law"  
S.P. 235 L.D. 728  
(C "A" S-195)

Amen.

Bill "An Act to Expand the Definition of Escape"  
S.P. 248 L.D. 767  
(C "A" S-197)

Bill "An Act to Provide Immunity for Private Physicians in Public Hospitals"

S.P. 266 L.D. 803  
(C "A" S-196)

Bill "An Act to Provide Training for Activity Professionals"

S.P. 329 L.D. 1005  
(C "A" S-194)

Bill "An Act to Amend the Maine Business Corporation Act"

S.P. 381 L.D. 1137  
(C "A" S-192)

Bill "An Act Regarding Child Molestation"

S.P. 404 L.D. 1262  
(C "A" S-193)

Bill "An Act to Make Allocations from Maine Turnpike Authority Funds for the Maine Turnpike Authority for the Fiscal Year Ending December 31, 1994"

S.P. 464 L.D. 1456  
(C "A" S-186)

Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended.**

Sent down for concurrence.

Bill "An Act to Increase Tourism Visits and Tourism Revenues for the State" (Governor's Bill) (Emergency)

S.P. 480 L.D. 1478  
(C "A" S-198)

Which was **READ A SECOND TIME.**

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Carey.

Senator **CAREY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Can somebody give me the price tag on this item?

**THE PRESIDENT:** The Senator from Kennebec, Senator Carey, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Cumberland, Senator Harriman.

Senator **HARRIMAN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. In response to the good Senator from Kennebec, Senator Carey's, question, I would respond that there has been a great deal of debate on the cost of this Bill and let me share with you for just a moment some background. Two separate and independent studies were done on this proposed legislation. The analysis of the cost factor show that the return on the investment for the marketing plan to make Maine a destination for tourists indicated that the State of Maine could expect a three to one, to as much as an eight to one return on the investment in this tourism plan. The

Housing and Economic Development Committee chose to propose this legislation with a one to one return on this plan. During the Committee testimony on this Bill the State Tax Assessor, Mr. Lefebvre, testified that just tracking the meals and lodging tax alone on this marketing plan would pay for the expenditure. That did not include retail sales tax on other areas in our economy, it did not include the income tax that would be derived from these businesses that earned a profit from this marketing plan, and it is my understanding that this analysis was done on a 5% sales tax. With that as background I would tell you that when the Bill reached the floor of the Appropriations Committee it was done so with a fiscal note attached to it on the basis that there was no precedence for this approach to calculating revenues and, indeed, we have been unable to get the budget office or the office of fiscal and policy review to acknowledge that they could book those revenues. It is our hope that this Bill would be tabled to the Appropriations Table where it could be taken up at that time. Thank you.

Which was **PASSED TO BE ENGROSSED, As Amended.**

Sent down for concurrence.

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Off Record Remarks

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**ORDERS OF THE DAY**

The Chair laid before the Senate the Tabled and Today Assigned matter:

HOUSE REPORTS - from the Committee on **UTILITIES** on Bill "An Act to Amend the Laws Governing the Conversion of Fuel Systems"

H.P. 284 L.D. 371

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-348)**

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-349)**

Tabled - May 24, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

(In Senate, May 24, 1993, Reports **READ.**)

(In House, May 21, 1993, Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-348)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-348).**)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending **ACCEPTANCE** of Either Report.

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The Chair laid before the Senate the Tabled and Today Assigned matter:

Bill "An Act Allowing the Town of Pittsfield to Obtain Water from the Town of Burnham"  
S.P. 450 L.D. 1417  
(C "A" S-158)

Tabled - May 24, 1993, by Senator ESTY of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**

(In Senate, May 20, 1993, **READ A SECOND TIME.**)

On motion by Senator VOSE of Washington, Bill and Accompanying Papers **INDEFINITELY POSTPONED.**

Sent down for concurrence.

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The Chair laid before the Senate the Tabled and Today Assigned matter:

HOUSE REPORTS - from the Committee on **BANKING & INSURANCE** on Bill "An Act to Amend the Workers' Compensation Laws"  
H.P. 530 L.D. 714

Majority - **Ought Not to Pass**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-259)**

Tabled - May 24, 1993, by Senator ESTY of Cumberland.

Pending - **ACCEPTANCE** of Minority **OUGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE**

(In Senate, May 20, 1993, **ACCEPTANCE** of Majority **OUGHT NOT TO PASS** Report **FAILED.**)

(In House, May 19, 1993, Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED.**)

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator McCormick.

Senator **MCCORMICK:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would urge the body to vote against the Ought to Pass as Amended report and I have asked one of the pages to pass out some information from the Maine Employers Mutual that I think will address some of the concerns that you expressed when last we discussed this issue. In view of that can we have this Tabled until later in the session?

On motion by Senator ESTY of Cumberland, Tabled until Later in Today's Session, pending **ACCEPTANCE** of Minority **OUGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE.**

The Chair laid before the Senate the Tabled and Today Assigned matter:

HOUSE REPORT - from the Committee on **UTILITIES** on Bill "An Act Amending the Charter of the Brewer Water District" (Emergency)  
H.P. 615 L.D. 830

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-250).**

Tabled - May 24, 1993, by Senator ESTY of Cumberland.

Pending - **ACCEPTANCE** of Report, in concurrence

(In Senate, May 17, 1993, Report **READ** and **ACCEPTED,** in concurrence. Subsequently, **RECONSIDERED.**)

(In House, May 13, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-250) AND HOUSE AMENDMENT "A" (H-278).**)

On motion by Senator ESTY of Cumberland, Tabled until Later in Today's Session, pending **ACCEPTANCE** of Report, in concurrence.

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The Chair laid before the Senate the Tabled and Today Assigned matter:

SENATE REPORTS - from the Committee on **UTILITIES** on Bill "An Act to Minimize Electric Rates"  
S.P. 307 L.D. 940

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-159)**

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-160)**

Tabled - May 24, 1993, by Senator ESTY of Cumberland.

Pending - **ACCEPTANCE** of Either Report

(In Senate, May 19, 1993, Reports **READ.**)

Senator **VOSE** of Washington moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-159)** Report.

**THE PRESIDENT:** The Chair recognizes the Senator from Washington, Senator Vose.

Senator **VOSE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. This Bill is a result of our constituents throughout the State of Maine crying the blues about their bills on electricity. And rightly so, because they have gone up, and up, and up. What this Bill does is we are asking the Public Utilities Commission to do something to lower those costs to our people and in doing so we are asking them to keep and consider, equally, both rates and cost. That's part of the so called formula that was used and which will be explained later, as I

understand, in the debate. It was a concentrated effort by the people of our Committee to do the right thing on this Bill. We had the Commissioners over there, the Public Utilities Commissioners, and the Public Advocate, the utilities and industrial group, the National Resource Council, and we all worked very, very hard and long to achieve the results of this particular Report and another Report, both of which are Ought to Pass. We feel very strongly, the majority of our Committee, that we want to send a message over to the Commission to do the right thing for the people of the State of Maine and we don't want to go over there with their hands tied, I mean that's just like sending someone into battle with one hand tied behind their back and asking them to win the war.

One of the things we also agreed on is that we would not discourage conservation, we would not encourage construction of homes with baseboard heat, but we do want equal consideration on both rates and cost. We also made it very plain that we did not want any adverse affect on small home owners or any consumer like that. This is a good Report, it was accepted by the Commissioners, the Public Advocate, the utilities, the industrial group and the majority of the Committee so I hope you will accept this report. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator **CLEVELAND:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'd like to begin, because this is really a very important subject and it will require some attention to understand all of the details of it today, but as we begin this discussion I think we need to begin with an understanding of what the Bill does or does not do, so that we all can be working from the same premises. In beginning that discussion I would like to pose a series of questions and I will do them all at once so that I don't have to pose them individually to anyone in the chamber who can answer them so we can have a clear understanding of exactly what it is that these proposals contain or do not contain. Hopefully we can make a judgement based on the facts and the merits of the Bill. The questions I would pose are these, what exactly does the Majority Report, the A Report that you have, do, and incidentally it was a 7 - 6 vote, and how does it plan to do it? How does it plan to do it? That's important. It is one thing to say what we want, which is to say we want lower rates, wouldn't you like lower rates, are there any constituents who wouldn't like it? It's one thing to say what we want, it's another to say how we will achieve it. I haven't heard yet this morning the how and I would pose the question of how this legislation intends to achieve the goals which it says has set itself up. I would also like to ask, because I think this is important, whether this is a significant policy change in regards to electric utility rate design or whether it is not. I have heard both simultaneously that this is a message and this is a policy change. I think it's important to determine whether we are changing state energy policy or whether we are changing a message. The two are not the same and I would like a clear understanding of whether it is the intent of this body to change state energy policy or whether it is the intention to send a message, analogous to our memorializations of Congress. Thirdly, I would ask if this is a change in policy why is the policy necessary? What obstacles specifically are in the way that requires that we make this change to achieve our goals? Not an

analogy about hands being tied, specifically what is the obstacle that we must change? What are we telling the PUC to do that they already can't do? How does the language in the A Report make it clearer on what we want to do rather than what is currently there? Let me summarize those because there was a series of them in case you may not have gotten them all. What does the Majority report really do and how does it plan to do it? Is this a significant policy change or is it a message? Why is the change necessary and what are the obstacles we're trying to overcome specifically in State statute? What are we telling the PUC to do to achieve the goals which we have laid out before them? How does this clarify as opposed to making it more ambiguous to what the change is? Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Washington, Senator Vose.

Senator **VOSE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. First off I believe that I answered the first question in that we are directing the Commissioners to at least do something. How to do it, we are asking them to determine how to do it. We are asking them to give some relief for the consumers of this State. As far as how they are going to do it, we are asking them to give equal consideration once again to the rates and the cost. As far as a policy change is concerned, I'm not so sure we are changing that so much because we are not suggesting that we have any affect on conservation that is a policy of this state, that's for sure. We're also suggesting that we are not encouraging the use or the construction of baseboard heat homes. I don't think we're changing any real policy. To get back to the how, there is no one on our Committee that I think is qualified to say how to do it, that's why we got the Commissioners over there. We tell them what we would like to have them do and we let them determine how they are going to do it. I can assure you that no matter what they do they certainly are not going to hurt the consumers. The fact is electric rates have doubled over the last decade. Your constituents and mine are up in arms over the cost of their electric bills and the high rates that are driving those bills. Electric customers in Maine, industrial and residential, who have invested in energy conservation and improved efficiency are still burdened with high electric bills and high rates, still. In fact, you might even say, they have been penalized for conserving energy. These facts are evidence that something is fundamentally wrong with the current State of Maine energy policy. The fact is that L.D. 940, before us, is in recognition of that problem. The fact that we have two Ought to Pass Reports before us is an indication that there is pretty broad agreement that the problem exists and that L.D. 940's approach to focusing PUC attention on the price of electricity, as well as on the cost of producing it, is the appropriate solution to that problem. Why are there two reports? If there is general agreement about the problem and about the solution why isn't there a single Majority Report? Let's look at the difference between the two. The Majority Report directs the PUC to strike a balance, to give equivalent consideration in minimizing cost and minimizing rates. The Minority Report simply tells the PUC to take rates into consideration while they work to minimize costs. In other words, the Minority Report fails to recognize the problem and gives lip service to the appropriate solution but actually leaves existing policy unchanged, it does nothing, nothing at all. It ignores the problem of high rates, it ignores the problem that Maine people are being penalized for

conserving energy and it ignores the fundamental imbalance in Maine energy policy that it had us dumping power for pennies into the rest of New England and subsidizing jobs out of state, while businesses here in this State can't compete. Once again, I'm asking you to support the Majority Report. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator Carpenter.

Senator **CARPENTER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I like to put things in as brief sentences as possible and to summarize exactly what has been said it would be that the Majority Report would make it clear that the PUC must consider the price of energy to the customer as a factor in rate setting procedures, and not may. They must consider it, not just if they feel like considering it. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator **CLEVELAND:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like to draw your attention to two things and I would suggest perhaps that you might want to take a look at them if you haven't already. There is the A Report which is under filing number S-159 and there is the B Report which is under S-160, I'm going to refer to those. If you find it convenient to have them before you you will find them in your Senate Amendment books, because I will be referring to them shortly because I think that it is important that you understand there are two reports, there isn't an Ought to Pass and Ought Not to Pass but two reports, and I would like to make those distinguished for you.

Before I start my remarks I have received a note here from a member of this body wanting to know how the 7 - 6 vote came out so I will tell you, for those of you who haven't had a chance to look at your previous calendar. The B Report includes myself and 5 members of the Democratic caucus from the House and the A Report includes all of the members of the Republican caucus and the 2 Democratic Chairs. That's how the vote happened to come out. I'd also like to draw your attention for a moment, I've asked that you all have a manilla folder handed out to you. In there I have a series of documents that I think are telling on what the implications of the legislation are and I will be referring to that so I would ask that if you have that handy at your desk you perhaps may want to look at it occasionally. Before I start my remarks, to try and give you an understanding of these two bills, I'd like to preface my remarks for a moment if I might. It's been alluded to that we really have two reports and why isn't there one report. I can tell you that I personally, and I believe every member who was on the B Report, agonized and tried to come to some common understanding on how we can come to support one report. We talked about it over a number of occasions and we worked very hard and very sincerely to do that because we felt there were some aspects of the report that were worth enacting into law and we wanted to find some way that we could get all of the positive aspects and minimize, or reduce, any of the negative aspects. It was also not absent our attention that this Bill was sponsored by the President of the Senate, that it was supported by the Governor's Office with a phalanx of staff members who testified there, that it had support of a number of all of the utilities who had a number of the business community. In fact it was one of the biggest

turnouts in hearings I have ever seen. It was not unmindful to us that there was a large support of influential people who supported this and we wanted to find a way to achieve all of our goals. We also were reminded, by a member of the staff of the President, in the Committee meeting the political consequences that might or might not occur in regards to support. We were not unmindful of that nor were we unmindful of the effects of the rates that would occur on individuals and tried diligently to find some common ground. We were not able to do that so we have two reports for you to consider. I'm also not unmindful of the fact that all three major utilities vehemently, passionately, got committed to the passage of this L.D., that they have come to the testimony, that they have testified at our hearings, that all three Chief Executive Officers of the companies have testified before us and many of them stayed through the work sessions day after day. It is clear that the utilities have put this as a huge priority, with huge legal staffs. It is also not unmindful to me that there were at least six to twelve lobbyists who have been working on this Bill continuously to find support within here, as well as the staff and as well as the Governor's staff. So I come here knowing that there are tremendous odds against success in this body. I also come knowing that those who would rank these kinds of activities and handicap them into passing or not passing have, in their own notes between the lobbyists, already indicated that the Senate is okay, not to worry, that it will be carried forward. I think it's important that we understand the entire issue so that is why I bring it to you, no other reason, no other particular interest other than to think what the consequences are to the public, to the rate payer.

With that I think the three important questions that need to be asked are what really does Amendment A do, how does it propose to do that? We have yet to hear how that is done other than supposedly the PUC is going to do it somehow. How will this really change the policy goal and how will that be accomplished and why is it needed? What's in our way? I'd like to talk to each one of those, if I might, for a moment, because I will suggest to you that what we are being asked to do is to put our collective legislative thumbs on the scale of decision process, on the public policy process, and push it down harder, with more weight on one side than the other. That's what we are being asked to do, so that the outcome will be something different than they are. We should understand at least what some people think the outcome ought to be.

First, what you need to understand is that these two Committee Reports essentially have two parts. There is a first part which talks about rates which you will see under section 1, and there is a second part which talks about incremental rates which you will see under Section H. What you find is that the reports are similar in regards to the second part, under allowing incremental rate or use of maintenance of existing use when these rates serve to minimize rate levels for all electric customers. We unanimously supported that on the Committee, in fact you have other bills here before you which will do the same thing and this is somewhat duplicative but still it's good to have it. Where we have somewhat of a disagreement here is in Section 2 of the Amendment, under proposals and programs developed. This is where you have the language which says "in approving a proposal under this section the Commission shall give equivalent consideration to the goals of minimizing cost and minimizing rates for electric customers." Shall give equivalent

consideration, not more or less, not changing under different circumstances, but always equivalent consideration. That is the part that is somewhat troubling to us because that is a policy change in our electric utility policy in this State, which doesn't tell you how to do it, it tells you what they want to occur. What's interesting about this is that do you really want to give equivalent weight and considerations to both of these circumstances simultaneously under all conditions? What if, for instance, you knew that in the future a coal fired plant would be less expensive than other kinds of energy, and since that could be an alternative form of energy provision, and therefore could lower the rates for individuals if you could produce power using that mechanism, that if you allowed that to occur or if you wanted to encourage that to occur, that you could give equivalent consideration to rates so that rates would go down by using this alternative form whether or not that was the best choice of energy in the future. The new law would say you have to give equivalent consideration to all circumstances. What if you knew that in the longer term that if you had a policy that would encourage short term lower rates, but in the long term might be more expensive for some unforeseen circumstances, maybe another oil embargo or middle East crisis that escalates the price of oil dramatically, that you would institute a policy that would lower rates now by encouraging declining block rates or lower rates or higher consumption, but in the future that capital cost that you incurred might be more expensive for the consumer because they have now invested in that form of energy, which is the least energy efficient, and they may find it more difficult to change in the future. It becomes somewhat confusing under what condition and what circumstances should you always give equivalent consideration.

In understanding how this works, I would suggest that you take a look at, in the manilla folder, the first item that I have suggested that you look at, which is A, and what I have outlined for you is how rates are established. Rates are established by taking total cost plus the profit allowed for the company and dividing that by the total number of kilowatt hours sold. That will give you what the rate should be per kilowatt hour on average. If what we want to do is have lower rates we can do two or three different things to achieve that. First you can lower costs and profits, because if it costs you less and you sell the same number, or more, kilowatt hours the average rate will go down. Or you can sell more kilowatt hours, keep the cost relatively fixed, and therefore the rate will go down because you are spreading it over a larger base. Or you might do a little of both. If you want rates to go down you either have to reduce costs and/or sell more kilowatt hours because in the bottom equation, when you multiply rates times kilowatt hours it must equal the cost and profit of the company. They must get sufficient revenue to meet all of their expenses, so the equation must work in that regard. What happens when you look at that equation is that if you want to do conservation, subsidized or paid for by the utility, that adds cost to the top part of the equation and it simultaneously reduces the kilowatt hours used, because you are conserving, therefore the effect is to slightly increase the rates. That's the way the equation has to work. Another way that you could look at shifting the equation is that you could shift the cost from one group of residential payers to another group. That is to have those who use a lot of electricity pay less for it and those who use a little amount pay more. When you balance that out, some paying less and some paying more, you still come

out with about the same equivalent amount for the utility but you have shifted the cost among the rate payers and you have encouraged people to use more electricity, which will expand the base. The question is is that the kind of more use that you want, that is more electric space heat used or do you want it to be used more for business use? What's interesting about the two proposals is the second part that I told you about, H, deals with primarily the business, the incremental use, that helps business because it allows them to either to have a retention rate or an incremental use if they have an expansion or a new business come. The B Report keeps that portion of the Bill, to help business, to help the economy. The first portion deals primarily with the residential rates, not business and economic rates necessarily, but primarily residential rates.

I'd like you take a look at the exhibit labeled B because I think it's important as we talk about what the how is, at least that there is an understanding among the sponsors and those who are supportive, we ought to know what the utilities think of these, because they are the one's who are going to go to the Public Utilities Commission with their attorneys and make a case and file the rate proposals. They are the ones who are required to do that. It would be interesting, I think, to know at least what all three utilities think it does.

Item B in your packet is a letter from David Flanagan, Executive Vice President of Central Maine Power Company, to Bill Nugent. In this letter he outlines a variety of different things the company are doing in regards to the rates. At the bottom of the first page he is talking about how do we affect the rates, he's talking about this formula that I just told you about. He says the first thing we could do is we could reduce costs, that would help rates to go down. He talks about what they have been doing and what they are trying to do, he says "Realistically, however, a very large portion of MCP's costs are fixed, meaning they are outside of management's ability to control, as can be seen readily from the attached chart." If you look to the back page you will see the attached chart that they have set out here and what they have said in this chart is about 80% of all of their costs are fixed, or they have little control over, only about 20% can they change. So the company is saying to us we can't change rates and lower them a great deal by looking at our cost end of it so we're not looking at that as the primary way of lowering rates at all. In the second place he says, what we could do, we could raise rates. That would be another way of affecting the equation, we don't want to do that but that would be the other way. Then thirdly, we could do it by selling more kilowatt hours. As I showed you in the equation. Mr. Flanagan understands the formula as well. What he says on the bottom of the page of page 2 is that we are proceeding to deal with this in two ways, first we are supporting legislation to be introduced by Senator Dutremble entitled "An Act to Minimize Electric Rates" which would have the effect of requiring, would have the effect of requiring, the PUC to permit rate structure reforms that will benefit all customers. He talks, in the third page in the second full paragraph, "Likewise, CMP is seeking to achieve rate restructuring to give our customers the benefits of economies of scale in purchases and prices more consistent with the low costs of generating more electricity from existing facilities." What does that mean? If you go and look they have a rate case already filed at the PUC, it's docket number 92-315, and in that docket number they put forward the proposals on how. It says, "On



February 17, 1993, we filed testimony with the PUC outlining our resources and our costs, as well as describing our approach to restructuring electric rates." That's in that docket number 92-315 which is on file. What does that mean? If you look at exhibit C, you have a letter from Matt Hunter, the President of the Company, this was a letter incidentally, that you probably got in your little stuffing with your CMP bill, so you all got it at home, but I've given you another copy here, I'm sure along with the new recipe for chocolate cake you read this with great relish. What does the President of the Company say? He says, in the last paragraph, "CMP will be working with the Legislature to try to change state energy policies..." He doesn't talk about sending any messages to anybody he talks about how we are going to change state energy policy to allow more competitive pricing of electricity, and he names the Bill, "An Act to Minimize Electric Rates". That's what they are going to do, that's what the President of the company says. What does that mean? Look at handout D. This is to Ms. Jackman, Nancy Jackman in Old Orchard Beach, and it is from Mark Ishkanian. It's dated March 8, 1993, incidentally. The first sentence says "Our President, Matthew Hunter, has read your letter and asked me to respond". On page three of that little letter, here is what Mark Ishkanian is saying that the President has apparently told him to say, in the second full paragraph, "CMP is supporting legislation currently under consideration in Augusta, 'An Act to Minimize Electric Rates,' which will change pricing structures imposed by the MPUC" it didn't send a message, it will change pricing structure, that's what it says, "to reflect today's current surplus of electricity and reinstate a declining block rate to give a price break to higher users of electricity." He says we will reinstate it.

Some of that language may be overstated and overoptimistic, but there is no doubt what the utilities think it does. This is going to change public policy, that it will put them in a position of them being more able to argue their case before the PUC for declining block rates. What is declining block rates? If you look at your next handout, labeled E, you have there a series of tables. These tables come from docket number 92-315, filed by CMP with the PUC, on what they would propose, or what they are proposing for a new rate design structure to help all customers and to sell more kilowatt hours. What they are proposing is a declining block rate. That's what they said, this is what it is. If you look at the last two columns of that table, you begin to see what it is. In the first decrement, it would increase prices for residents who use no electricity by 175%, in the next 100 block it would increase it by 303%, 160% in the next block, 113% for the next 100 block, 89.2% for the next 100 block, 62.9% for the next, 46.7% for the next, 35.7% for the next 100 block. We're up to 800 kilowatts a month now. 27.8% for the next block, 21.8% for the next block, 16.2% for the next, we're up to 1000 kilowatt hours a month now. This is their proposal, this would crank up rates for the little guy, for the little residential user, the guy who doesn't have too much chance, can't unplug their refrigerator and has to put the lights on occasionally, probably has to run an electric stove to cook their meals, so they don't have a lot of different choices to get off because they are on the low end. If you look, it does help some, if you use 4000 kilowatt hours a month you get a decrease of 38% in your bill. Not bad, if you have a condo on Sugarloaf in the winter, it's going to be a little less expensive to ski up there. Additionally, if you look at F, if you like charts

better than numbers, handout F is just simply a chart that does the same thing in a graphic form and you can see the shift, from the big guy to the little guy. If you do do that you are going to encourage people to use more kilowatt hours, turn up their electric heat, stay with it, it's going to be cheaper.

I'd like to bring you to the next point and that is that the reason we are doing this is because we have this surplus energy, this excess capacity. We're awash in power and we don't have any place to put it. We've introduced some bills to deal with that, the Incremental rate within this Bill, both A and B, would help to deal with that, L.D. 312 would help to deal with that, which you have already voted on. Let's take a look at this question, this is a memo from Bill Nugent to the members of the Public Utilities Commission in regards to the issue of surplus energy that we have heard about. I've underlined the fourth paragraph portion of it and says there are two important questions to ask, this is from Commissioner Bill Nugent. How much excess/surplus capacity exists, and then how much additional capacity will cost? How much do we have now and how much will it cost to get new? This memo, and its attachment, addressed the first two of these questions. In the bottom paragraph what you have is a report from NEPOOL, that's the cooperative arrangement with other New England electric companies, who jointly plan and dispatch their electric capacity in New England, and they have a report called "The Forecast Report of Capacity, Energy, Loads and Transmission", the so-called "CELT Report", for capacity, energy, loads and transmissions. It's a report dealing with the period from 1993 to the year 2008 and this is what these folks have reported. In about the middle of the page, the full paragraph that begins, "It is interesting to note that, contrary to some current impressions, there is not for 10 or 15 years a virtually limitless supply of excess/surplus capacity whose output is likely to be 'dirt cheap'." It's not likely he says. As Mr. Parker, who is the Chief Analyst there, says, "the reference load forecast (i.e., the 'down the middle', neither optimistic nor pessimistic forecast) capacity would fall below (NEPOOL's desired) reserve margin during 1995 - 1996", less than three years away. So that's where the big capacity is and it's likely to be gone in about three years. We're talking about setting a new State policy to use it up by having a declining block rate.

I thought I would give you handout H in writing, because there is apparently some difference of opinion here, but this is a handout we received from the Public Advocate in regards to this Bill. The last sentence in the second paragraph says, "I do not believe that it is necessary to establish in the Electric Rate Reform Act a broad policy when the PUC is already acting to implement the identical objectives. Secondly, I think it unwise to put this policy objective into the form of a statutory mandate until we have gained more experience with the incremental energy and load retention programs which are now in place." And he refers to docket number 92-315 which is the one I have been referring to as we have gone through our discussions.

Finally, this is Rethinking America, this is the Maine Policy Review Manual from the Margaret Chase Smith Center, I've copied a page out of that for you. This is a group, incidentally, which reviews utility and environmental energy issues for the State of Maine. It is funded by a number of the utilities in the State who pay its salaries. This is what it

says, "On the electric side, the three large electrical utilities, Central Maine Power, Bangor Hydro-Electric, and Maine Public Service, have initiated a major, coordinated effort to shift the direction of electric regulation." They have shifted the direction of electric regulation, no message there, they know what they want. "They have introduced legislation, L.D. 940, that would essentially resolve the 'prices versus total bill' debate in favor of lower prices." It also says, near the top of the next column, "Although the case is technically a CMP case, both Bangor Hydro and Maine Public Service plan to participate as intervenors, and it is clear that they expect the CMP decision to set the pattern for Maine." That the outcome from this case will set the electric policy for the future. Further down in that same column, "Thus, the utilities are urging a consideration of a return to declining block structures and similar policies to promote electric use. Precisely because the utilities are arguing for a fundamental shift in regulatory policy at both the Legislature and the Commission." It's likely to be contentious. So I suggest to you that this is a fundamental shift. The utilities think it is a fundamental shift, that's what they are planning on it to be and that the fundamental shift primarily in the residential area is to crank up the rates for the little guy and let the big user pay less.

Having looked through to see what the how is, at least what some important segments of the community who will be arguing the case with PUC think the how is, I suggest that we need not do it. We have been told, through testimony, by the Public Utility Commissioners themselves that they have all of the authority they currently need, all of the authority they currently need, to implement lower rates. That this provides no new authority that they currently don't have whatsoever. They have said they are neither necessarily for or against it because provisions have been further added that has said it's not this and it's not that, it's not about conservation and it's not about a rate case that currently exists, and it's meant to help all consumers so, frankly, since they have seen it sort of more qualified they have changed from being opposed, which was their original position, to being neither necessarily for or against. I suggest to you it's a lot different to say what something is not, it is not A, it is not B, it's not about lowering conservation, then it is to say what it is, because unless you say what it is it gives all of those who wish to define what it is lots of running room to define what it is. Whether you are clear about it or not, they will be clear about it, and they are clear about it. They are not ambiguous about what their position is and that is what I suggest to you they are going to argue when they get their opportunity, having the scales somewhat more tilted in their favor, by the weight of the legislative thumb on the scales. What we have tried to save the best of both on the Bill, which I think we have done. We have said that rates are important, that rates ought to be considered, that rates are part of the factor. We have said that you ought to have incremental rates and put it in the statute that incremental rates are helpful to do that. We have avoided the ambiguous language about weighing equivalently rates and costs and what does it really mean and under what circumstances do you do it and under what circumstances don't you do it. It's listed in a hierarchy of other considerations, there isn't simply one, there are many considerations the Public Utilities have to take into consideration. Are they supposed to take all of the other

considerations into less consideration, are they supposed to be less equivalent than those two issues, or more, and under what circumstances. It provides, I think, more confusion than clarity, that it sets and tilts the scale against the small residential user of electricity and there is no current existing obstacle, none, that anyone has testified to, that suggests that the PUC can't, nor have they been trying, to reduce rates. Certainly I think it's laudable and I think it is certainly the intent of the sponsor and others to do something positive for the people of this State, that's what we would all like to do. The problem is is that the devil lies in the detail. The words make all the difference and I suggest to you that there are those who think that this means declining block rates, they will argue that that is what those details mean, that it will be to the disadvantageous, regardless of what we disqualified or qualified this legislation to be, and it is not necessary nor in the public interest. I would urge you to vote against the Majority A Report and let's have an opportunity to support the B Report which I suggest to you will accomplish all of the positive goals intended in the Bill and not put in jeopardy a policy that I think will be a detriment to the small user. Thank you,

**THE PRESIDENT:** The Chair recognizes the Senator from Oxford, Senator Luther.

Senator **LUTHER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Last year I was on the Utilities Committee and went to many hearings where the elderly came and didn't say one thing about their rates. I never heard anybody complain to me about rates. They complained about bills. They couldn't pay the bill. They got rid of their electric water heater, they no longer used it because they couldn't afford it. They didn't watch the TV, they did their washing at weird hours of the day. It didn't help, their bills kept going up and going up. I am very unhappy with this chart that the Senator has provided for us because I pay the zero rate, we have a camp at the pond, which we are not at for six months of the years, and we get a bill for \$10.17, and now it seems we are going to get a bill for \$17.83. I resent it very much but it's a summer home and when you really can't afford them anymore you get rid of them and don't live there. I am very concerned about people who use 500 kilowatts or less, because that is the elderly on fixed incomes, and if we are going to vote here today to raise their bill then I want us to know that that is what we are doing and I want them to know that that is what we're doing. This is about paying their bill, it's not about rates. I want to ask whoever chooses to answer, is this an accurate chart for people who are using less than 500 kilowatts a month, will they see a substantial increase in their bill if we pass the A Report. Thank you.

**THE PRESIDENT:** The Senator from Oxford, Senator Luther, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Washington, Senator Vose.

Senator **VOSE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. No.

**THE PRESIDENT:** The Chair recognizes the Senator from Oxford, Senator Luther.

Senator **LUTHER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would pose another question through the Chair. Is this chart

inaccurate? If it is inaccurate then please explain where the inaccuracy is. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator **CLEVELAND:** Thank you Mr. President, Ladies and Gentlemen of the Senate. In response to the question posed, this chart comes from the information filed on docket number 92-315 by Central Maine Power. The chart was developed by the staff at the Public Utilities Commission taking the data provided by the utility and then doing the computations. I would suggest to you that the chart is extremely accurate if a declining block rate, with those provisions provided by the company, is enacted by the Public Utilities Commission. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Somerset, Senator Cianchette.

Senator **CIANCHETTE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'd like to make a few comments about this. I first want to commend Senator Cleveland from Androscoggin for the very thorough description and report of his concepts of what's going on. I'd like to answer, briefly if I may, my opinion of the how. The how is simply doing a volume business compared to what they are doing today. Our rates in this State, our electric rates, have gone up, in the past ten years, something like 20% more than they have gone up in Massachusetts. Maine used to have an 18% advantage over Massachusetts on electric rates, today we're either even or slightly above the rates in Massachusetts. That has all happened because of our policies in saying to the electric companies that we want you to pay people not to use your product. We want to make sure that your product is not a good trade. I don't know of any business in this world that can survive paying people not to use their product and pricing themselves out of the market. On this rate chart I believe the numbers and the figures are accurate but I do not believe that is the rate that would ever be established by the PUC. In my opinion the utilities are extremely sensitive, and are trying to find a way to lower electric rates. One way to do that is with a volume business and one way to do a volume business is to give people a better trade in the product. I can see, very clearly, a way and an opportunity for this State to reduce its electric rates by doing a volume business and selling their electricity for more fair prices. We are selling it for something like one cent to the New England Power Pool and it's a bit ridiculous, we don't need to sell that. We could go the block rate grant and, in my opinion and my understanding of the way it should work, there definitely should not be an increase in the lower rates. That is a matter of arithmetic and that is a matter of how those rates are set and I don't believe, and I cannot believe that the PUC and the Public Advocate would allow that chart to become law. That chart could be easily redrafted and the numbers would look right. I don't hang my hat on that and I just say we have to do something to lower rates and I would strongly urge you to vote for Amendment A. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator **CLEVELAND:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'd like to make a couple of points because it has been suggested that the root of our problem here is that we have been paying people, the utilities have been paying people,

not to use their product, electricity. In other words we have been promoting conservation. Conservation is that you ought to use power energy always in a way that is efficient and not wasteful. We never ought to waste any of our resources. I'd like to share with you what the impact of conservation is on your bill. Currently, Central Maine Power Company will spend about \$10 million in the current fiscal year, not budget, spend about \$10 million for all conservation programs in this State. The company's total revenue is somewhere in the order of \$850 million to \$875 million annually. You can do the mathematics if you would like. If you divide \$850 or \$875 million into \$10 million what you find is that for the total cost of the company it is a little over 1% for all conservation, a little over 1%. If you get a \$100 bill for the utility in a month, \$1 of it is attributable, 1%, to the conservation efforts. If you eliminated it, you would see perhaps a 1% difference in consumer rates as a result of conservation. Even in a worst case scenario, if you wanted to include the fact that you have to deduct out the kilowatt hours lost, you can look to CMP's own filings at the PUC, under the Electric Rate Adjustment Mechanism, ERAM which has been discontinued incidentally, or will be discontinued, they say that they do something like \$37 million due to conservation. That also includes, incidentally, the loss of electricity used because of the recession, and loss of electricity used because of climate changes, whether it's warmer or colder in the winter and summer so people have to use less. Even if you include that, I want to be generous and not include anything else, even if you include that it is maybe 4%, maximum, of the total amount. You all know your bills have gone up more than 1% or more than 4%, we wish they only went up that much. So, clearly, the driving force isn't conservation. There are those who might like to think that it is, and may suggest that it is but the math doesn't add up ladies and gentlemen. It is never appropriate to use any resource inefficiently and wastefully. Conservation is only ever used when it is the least cost, that is, it is less expensive to save a kilowatt hour than it is to build a new load. If it is less expensive to build a new facility then it is conserve then you ought to build a new facility. I support it. You only ought to conserve it when it is less expensive, and that's the test in the statute. I hardly think that conservation is the root of the evil here.

I might suggest to you as well that yes, we have a problem. A serious one. There are two things that are at the root of the problem. First, the recession, this State has experienced, as has most of New England, an enormous reduction in employment and the recession has affected business and electric use. Between the years of 1990 and 1991 the utility, for the first time in 50 years, saw a decrease in the total number of kilowatt hours used, a decrease. That wasn't all due to conservation, it was due because we were suffering under a recession. The first time in 50 years, however, as is required by the utility, they have to plan 7 or 8 or 10 years in advance for projected need, because it takes that long to get capacity on line. So during the early and middle 1980's when the economy was booming, they had to make a decision, that if they didn't have more capacity they wouldn't be able to provide service to their customers so they built or bought new capacity. The bill for that happens to coincide somewhat with the recession because the facility haven't come on line until about this period, or at least some of them haven't, so the bill comes due exactly at the time when the demand isn't there. That's the way it happens in this cycle process.

One can argue whether they pay more or less than they should have, perhaps they did in some cases and perhaps they have not in other cases. I suggest to you if we had the Quebec Hydro project the bills would be even higher, not lower, than they are right now. So there are a number of factors that are affecting it, the primary one is the economy. We have tried to retain the section of the Bill that would encourage economic growth and development by providing an incremental, or incentive, rate mechanism because it is important to get the economy moving up and that's the thing that will help move it.

There has been no explanation on the how on declining block rates that that is going to improve the electric utility rate and, as a matter of fact, in the long term may disadvantage a number of residential consumers. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **VOSE** of Washington, to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-159)** Report.

The Chair ordered a Division.

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

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

25 Senators having voted in the affirmative and 7 Senators having voted in the negative, the motion by Senator **VOSE** of Washington, to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-159)** Report, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-159) **READ** and **ADOPTED**.

The Bill as **Amended**, **LATER ASSIGNED FOR SECOND READING**.

The Chair laid before the Senate the Tabled and Today Assigned matter:

Bill "An Act Related to Lottery Machines"  
H.P. 159 L.D. 211  
(C "A" H-319)

Tabled - May 24, 1993, by Senator **ESTY** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence

(In Senate, May 21, 1993, **READ A SECOND TIME**.)

(In House, May 19, 1993, **PASSSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-319)**.)

On motion by Senator **CAREY** of Kennebec, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (H-319), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-190) to Committee Amendment "A" (H-319) **READ** and **ADOPTED**.

Committee Amendment "A" (S-319) As Amended by Senate Amendment "A" (S-190) thereto, **ADOPTED** in **NON-CONCURRENCE**.

Which was **PASSSED TO BE ENGROSSED**, As **Amended** in **NON-CONCURRENCE**.

On motion by Senator **ESTY** of Cumberland, the Senate **RECONSIDERED** its action whereby the Bill was **PASSSED TO BE ENGROSSED AS AMENDED** in **NON-CONCURRENCE**.

On further motion by same Senator, Tabled Unassigned, pending **PASSAGE TO BE ENGROSSED AS AMENDED** in **NON-CONCURRENCE**.

The Chair laid before the Senate the Tabled and Today Assigned matter:

Bill "An Act Regarding the Department of Environmental Protection Rulemaking"  
H.P. 861 L.D. 1170  
(C "A" H-317)

Tabled - May 24, 1993, by Senator **ESTY** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence

(In Senate, May 21, 1993, **READ A SECOND TIME**.)

(In House, May 19, 1993, **PASSSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-317)**.)

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

Off Record Remarks

The Chair laid before the Senate the Tabled and Today Assigned matter:

Bill "An Act Related to the Adoption of Municipal Ordinances and Comprehensive Plans and to Revise Notice Requirements for Certain Zoning Changes"  
H.P. 864 L.D. 1173

Tabled - May 24, 1993, by Senator **ESTY** of Cumberland.

Pending - **ADOPTION** of Committee Amendment "A" (H-343), in concurrence

(In Senate, May 21, 1993, Committee Amendment "A" (H-343) **READ**.)

(In House, May 20, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-343)**.)

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (H-343), in concurrence.

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The Chair laid before the Senate the Tabled and Today Assigned matter:

HOUSE REPORTS - from the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide the Governor with a Line-item Veto  
H.P. 948 L.D. 1277

Majority - **Ought Not to Pass**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-338)**

Tabled - May 24, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

(In Senate, May 24, 1993, Reports **READ**.)

(In House, May 24, 1993, Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-338) AS AMENDED BY HOUSE AMENDMENT "A" (H-393)** thereto.)

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending **ACCEPTANCE** of Either Report.

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The Chair laid before the Senate the Tabled and Today Assigned matter:

HOUSE REPORTS - from the Committee on **HUMAN RESOURCES** on Bill "An Act to Protect Maine Citizens From the Effects of Environmental Tobacco Smoke"  
H.P. 666 L.D. 904

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-358)**

Minority - **Ought Not to Pass**

Tabled - May 24, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

(In Senate, May 24, 1993, Reports **READ**.)

(In House, May 24, 1993, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-358)**.)

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending **ACCEPTANCE** of Either Report.

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The Chair laid before the Senate the Tabled and Today Assigned matter:

HOUSE REPORTS - from the Committee on **STATE & LOCAL GOVERNMENT** on Bill "An Act Imposing Term Limits on Legislative Leadership Positions"  
H.P. 546 L.D. 742

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-364)**

Minority - **Ought Not to Pass**

Tabled - May 24, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

(In Senate, May 24, 1993, Reports **READ**.)

(In House, May 24, 1993, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-364)**.)

Senator **ESTY** of Cumberland moved to Table Unassigned, pending **ACCEPTANCE** of Either Report.

**THE PRESIDENT:** The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like to pose a parliamentary inquiry.

**THE PRESIDENT:** The Senator may pose his question.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. If this item is Tabled Unassigned will it then be relegated to then not coming off the Table until such time as the Senator from Cumberland deems it to come off?

**THE PRESIDENT:** The Chair would answer in the affirmative.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like to pose a question through the Chair. To the good Senator from Cumberland, Senator Esty, what is the rationale for tabling this Unassigned?

**THE PRESIDENT:** The Chair would advise the Senator that a Tabling motion is not debatable.

Senator **HANLEY** of Oxford requested a Division.

On motion by Senator **CAHILL** of Sagadahoc, Tabled until Later in Today's Session, pending **ACCEPTANCE** of Either Report.

The Chair laid before the Senate the Tabled and Today Assigned matter:

HOUSE REPORTS - from the Committee on **LEGAL AFFAIRS** on Bill "An Act to Protect Children from Illegal Tobacco Sales"

H.P. 554 L.D. 750

Majority - **Ought Not to Pass**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-375)**

Tabled - May 24, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

(In Senate, May 24, 1993, Reports **READ**.)

(In House, May 24, 1993, Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

The Chair moved that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS**, Report, in concurrence.

**THE PRESIDENT:** The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would ask that this chamber not go along with the Majority Ought Not to Pass, but instead go along with the Minority Ought to Pass as Amended. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Summers.

Senator **SUMMERS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'd like to pose a question through the Chair. Perhaps to a member of the Legal Affairs Committee, seeing as this legislation has set on the Table for quite some time, perhaps they can refresh the memberships memories on this issue.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Handy.

Senator **HANDY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I never thought I would get so much support for such a stark Minority Report. I chose not to bring this to the floor and fight this given the fact that we have a number of issues dealing with the issues of smoking and tobacco use and I notified the good Senator from Kennebec, Senator Carey, the Chair of the Legal Affairs Committee, that it would be my druthers to let this Bill die a merciless death and take up the issues of tobacco and smoking in one of the other Bills to come before the Senate. I'm in support of the good Senator's motion to accept the Majority Ought Not to Pass Report. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Summers.

Senator **SUMMERS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Could the Secretary read the Committee's Report? Thank you.

Which Reports were **READ**.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Summers.

Senator **SUMMERS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I ask that you go along with acceptance of the Minority Ought to Pass Report. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Carey.

Senator **CAREY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. At a time when we have absolutely no money to operate with we fall a little short in this Bill because we need some \$250,000 to operate. It was our hope that we might be able to carry this forward into the Second Session so we can find out exactly where we stand with the loss of revenue with the substance abuse people out of Washington. It has reached this particular point and if I could turn to the President for a previous message. Mr. President I would move that this Bill be recommitted to the Committee on Legal Affairs. Thank you.

On motion by Senator **CAREY** of Kennebec, Bill and Accompanying Papers **RECOMMITTED** to the Committee on **LEGAL AFFAIRS** in **NON-CONCURRENCE**.

Sent down for concurrence.

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

#### ENACTORS

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

An Act to Exempt Certain Greenhouse and Nursery Owners from Licensing Fees

H.P. 166 L.D. 218  
(H "A" H-238; H "B"  
H-361 to C "A"  
H-209)

An Act to Amend the Shoreland Zoning Law

H.P. 168 L.D. 220  
(C "A" H-335)

An Act to Permit Children 5 Years of Age to Enter Grade One

H.P. 184 L.D. 236  
(C "A" H-221)

An Act to Amend the Laws Regarding Protection from Harassment to Include the Protection of Rental Property

H.P. 236 L.D. 304  
(C "A" H-291)

An Act to Create a Franchise Law for Power Equipment, Machinery and Appliances

S.P. 127 L.D. 364  
(C "A" S-155)

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|--|--|
| <p>An Act Concerning Termination of Tenancies at Will<br/>H.P. 468 L.D. 605<br/>(C "A" H-316)</p>  | <p>An Act Repealing Advisory Boards on Corrections Matters<br/>H.P. 850 L.D. 1155<br/>(C "A" H-293)</p>  |
| <p>An Act Regarding Vessels Stored at Marinas<br/>H.P. 481 L.D. 618<br/>(C "A" H-286)</p>  | <p>An Act to Authorize the Commissioner of Inland Fisheries and Wildlife to Alter the Deer Seasons<br/>H.P. 940 L.D. 1269<br/>(C "A" H-320)</p>          |
| <p>An Act to Better Preserve and Protect Endangered and Threatened Wildlife in Maine<br/>H.P. 512 L.D. 670<br/>(C "A" H-308)</p>                       | <p>An Act to Amend the Laws Concerning Massage Therapists<br/>H.P. 982 L.D. 1313<br/>(C "A" H-333)</p>   |
| <p>An Act to Require Additional Landlord Disclosures<br/>H.P. 563 L.D. 760<br/>(C "A" H-290)</p>   | <p>An Act to Bring the State Tipping Wage up to the Federal Tipping Wage<br/>H.P. 993 L.D. 1335<br/>(C "A" H-332)</p>                                    |
| <p>An Act to Determine Eligibility of Child for Benefits<br/>S.P. 245 L.D. 764<br/>(C "A" S-161)</p>   | <p>An Act Regarding Suspension of Maine Guide Licenses<br/>H.P. 1001 L.D. 1347<br/>(C "A" H-321)</p>   |
| <p>An Act to Improve Access of Injured Workers to Medical Care<br/>H.P. 644 L.D. 875<br/>(C "A" H-331)</p>   | <p>An Act to Require Employee Leasing Companies to Post Security Bonds or Deposit Securities<br/>H.P. 1012 L.D. 1358<br/>(H "A" H-325)</p>               |
| <p>An Act to Establish a Guideline for Maximum Assessment Ratios<br/>H.P. 734 L.D. 992<br/>(C "A" H-313)</p>   | <p>An Act to Provide for Special Liquor Licenses<br/>S.P. 442 L.D. 1372<br/>(S "A" S-166)</p>  |
| <p>An Act to Expand the Membership of the Interagency Task Force on Homelessness and Housing Opportunities<br/>H.P. 739 L.D. 997<br/>(C "A" H-295)</p> | <p>An Act Regarding the Holding of Juveniles in the Penobscot County Jail<br/>H.P. 1026 L.D. 1378<br/>(C "A" H-294)</p>                                  |
| <p>An Act to Amend the Laws Governing Adverse Possession of Real Estate<br/>H.P. 790 L.D. 1076<br/>(C "A" H-314)</p>                                   | <p>An Act Regarding Registration of Nursing Assistants<br/>H.P. 1028 L.D. 1380</p>   |
| <p>An Act Amending the Liquor License Laws<br/>H.P. 792 L.D. 1078<br/>(C "A" H-306)</p>  | <p>Which were <b>PASSED TO BE ENACTED</b> and having been signed by the President, were presented by the Secretary to the Governor for his approval.</p> |
| <p>An Act to Increase the Fee for Taking Fingerprints and Palm Prints of Citizens upon Request<br/>H.P. 793 L.D. 1079<br/>(C "A" H-315)</p>            | <p>An Act to Ensure Uniformity in Gasoline Octane Levels<br/>S.P. 151 L.D. 483<br/>(C "A" S-145)</p>   |
| <p>An Act Repealing Advisory Boards on Agriculture Matters<br/>H.P. 799 L.D. 1085<br/>(C "A" H-302)</p>  | <p>On motion by Senator <b>BRANNIGAN</b> of Cumberland, placed on the <b>SPECIAL HIGHWAY TABLE</b>, pending <b>ENACTMENT</b>.</p>                        |
| <p>An Act Repealing Advisory Boards on Energy and Natural Resource Matters<br/>H.P. 804 L.D. 1090<br/>(C "A" H-300)</p>                                |  |

An Act Concerning Continuous Emission Monitoring Devices

S.P. 368 L.D. 1125  
(C "A" S-154)

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

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**Resolve**

Resolve, to Grant an Easement from the Maine Technical College System to Darling's, Incorporated to Construct and Use an Access Road on the Campus of Eastern Maine Technical College (Governor's Bill)  
S.P. 435 L.D. 1367

Which was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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**Emergency**

An Act to Establish Uniform Procedures and Standards for Administrative Consent Agreements  
H.P. 179 L.D. 231  
(C "A" H-334)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with No Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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**Emergency**

An Act to Clarify Criteria for Allowing Unlicensed Municipal Solid Waste Landfills to Accept Waste After December 31, 1992  
H.P. 191 L.D. 254  
(C "A" H-217)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with No Senators having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

**Emergency**

An Act to Establish a Surplus Energy Program  
S.P. 111 L.D. 312  
(C "A" S-157)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with No Senators having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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Senator **CLEVELAND** of Androscoggin was granted unanimous consent to address the Senate on the Record.

Senator **CLEVELAND**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I didn't want to leave this moment when we just passed this particular item, L.D. 312. I wanted to bring to your attention that this is some work that the Utilities Committee did, lead by the good Senator from Washington, Senator Vose, to try to work with the surplus and to provide some rate relief to our rate payers in the State. What this Bill does is provide any opportunity by, and directs the Public Utilities Commission to establish rates or tariffs where surplus energy or capacity can be made available at a marginal cost plus some addition to cover administrative costs and some return to the customers so that instead of it being sold at less than marginal costs, less than its actual cost, it can be used for productive economic purposes to stimulate the economy and to help those businesses that need it to be retained within the State and encourage new business to come. I wanted to bring your attention to the fact that the Utilities Committee has worked on this issue and that you have just enacted a Bill that provides for a use of the surplus energy and it puts some safety provisions on it. What it says is those incremental rates can last as long as the surplus lasts, so that the point that surplus isn't there that we are not continuing to provide rates at a subsidized rate that will then be picked up by some other class of rate payers. It provides the opportunity in which the Committee can review the progress of that program and for the PUC to report back so that we can both see what the status of the surplus is within the State and what the effectiveness of the program has been. I wanted to bring that to your attention because I think it's an important piece of work that you have done and I think that it will give some help to the rate payers and the utilities in the State. Thank you.

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Off Record Remarks

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**Emergency**

An Act Concerning the Payment of Assessed Property Taxes

H.P. 322 L.D. 410  
(C "A" H-312)

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with No Senators having voted in the negative, and 30 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

**Emergency**

An Act to Make Corrections to the Salary Reductions Authorized in Public Law 1991, Chapter 780, Part III

S.P. 203 L.D. 639  
(C "A" S-162)

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with No Senators having voted in the negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

**Emergency**

An Act to Amend the Maine State Retirement System Laws Related to the Participating Local Districts Consolidated Plan

H.P. 755 L.D. 1022  
(C "A" H-327)

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with No Senators having voted in the negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

**Emergency**

An Act to Establish Municipal Cost Components for Unorganized Territory Services to be Rendered in Fiscal Year 1993-94

H.P. 859 L.D. 1168  
(C "A" H-310)

On motion by Senator **PEARSON** of Penobscot, Tabled 1 Legislative Day, pending **ENACTMENT**.

**Emergency**

An Act to Clarify Responsibility for Workers' Compensation Coverage for Town Forest Fire Wardens and Laborers Hired for Forest Fire-fighting Activities  
H.P. 976 L.D. 1307  
(C "A" H-285)

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

**Emergency**

An Act to Amend the Laws Governing the Hancock County Budget Advisory Committee

S.P. 449 L.D. 1416  
(C "A" S-146)

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with No Senators having voted in the negative, and 28 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

**Emergency**

An Act Relating to Publication of Legal Notices  
S.P. 468 L.D. 1460

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with No Senators having voted in the negative, and 30 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

**Mandate**

An Act to Provide for Water Rights to the Town of New Gloucester

H.P. 62 L.D. 92  
(C "A" H-88; H "A" H-339)

This being a Mandate and in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 31 Members of the Senate, with No Senators having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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**Mandate**

An Act to Amend the Waldoboro Utility District Charter

H.P. 745 L.D. 1012  
(S "A" S-164 to C  
"A" H-225)

This being a Mandate and in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 33 Members of the Senate, with No Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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**Mandate**

An Act to Ensure Compliance with Existing Energy Efficiency Building Standards

S.P. 241 L.D. 734  
(H "A" H-323 to C  
"A" S-102)

Comes from the House **FAILING OF ENACTMENT**.

On motion by Senator **ESTY** of Cumberland, Tabled  
1 Legislative Day, pending **ENACTMENT** in  
**NON-CONCURRENCE**.

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**Emergency Mandate**

An Act Relating to the Portland Harbor Commission and Portland Harbor

S.P. 315 L.D. 948  
(S "B" S-152 to C  
"A" S-144)

This being a Mandate and in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 33 Members of the Senate, with No Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

**PAPERS FROM THE HOUSE**

**House Papers**

Resolve, Relating to Access for People with Disabilities

H.P. 1140 L.D. 1540

Comes from the House referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**.

Which was referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**, in concurrence.

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Resolve, to Study the Tax Assessment Practices of Municipalities Regarding Mobile Homes

H.P. 1139 L.D. 1539

Comes from the House referred to the Committee on **TAXATION** and **ORDERED PRINTED**.

Which was referred to the Committee on **TAXATION** and **ORDERED PRINTED**, in concurrence.

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**COMMITTEE REPORTS**

**House**

**Ought to Pass**

The Committee on **HUMAN RESOURCES** on Bill "An Act to Maintain Confidentiality of Medical Information Reported to the Department of Human Services"

H.P. 945 L.D. 1274

Reported that the same **Ought to Pass**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

The Bill **LATER ASSIGNED FOR SECOND READING**.

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**Ought to Pass As Amended**

The Committee on **BANKING & INSURANCE** on Bill "An Act to Amend the Laws Concerning Medicare Supplement Insurance"

H.P. 1013 L.D. 1359

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-413)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-413)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-413) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, LATER ASSIGNED FOR SECOND READING**.

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The Committee on **HOUSING & ECONOMIC DEVELOPMENT** on Bill "An Act to Ensure Equitable Treatment of Manufactured Home Owners"

H.P. 309 L.D. 397

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-397)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-397)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-397) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, LATER ASSIGNED FOR SECOND READING**.

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The Committee on **HOUSING & ECONOMIC DEVELOPMENT** on Bill "An Act to Provide for Affordable Cooperative Housing in the State"

H.P. 553 L.D. 749

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-398)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-398)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-398) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, LATER ASSIGNED FOR SECOND READING**.

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The Committee on **HUMAN RESOURCES** on Bill "An Act to Establish Multidisciplinary Reviews of Child Abuse and Neglect Fatalities and Serious Injuries and to Provide Access to Confidential Information for the Multidisciplinary Reviews"

H.P. 1031 L.D. 1383

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-410)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-410)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-410) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, LATER ASSIGNED FOR SECOND READING**.

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The Committee on **HUMAN RESOURCES** on Resolve, to Create the Healthy Start Task Force (Emergency)

H.P. 1049 L.D. 1401

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-409)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-409)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Resolve **READ ONCE**.

Committee Amendment "A" (H-409) **READ** and **ADOPTED**, in concurrence.

The Resolve as **Amended**, **LATER ASSIGNED FOR SECOND READING**.

The Committee on **LEGAL AFFAIRS** on Bill "An Act to Amend the Laws Related to Concealed Weapon Permits" H.P. 951 L.D. 1280.

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-402)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-402)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-402) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended**, **LATER ASSIGNED FOR SECOND READING**.

The Committee on **STATE & LOCAL GOVERNMENT** on Resolve, Creating the Maine State 175th Anniversary Commemoration Commission H.P. 877 L.D. 1191

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-404)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-404)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Resolve **READ ONCE**.

Committee Amendment "A" (H-404) **READ** and **ADOPTED**, in concurrence.

The Resolve as **Amended**, **LATER ASSIGNED FOR SECOND READING**.

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

**COMMITTEE REPORTS**

**House**

**Divided Report**

The Majority of the Committee on **BANKING & INSURANCE** on Resolve, Requiring an Audit of the Functions and Records of Workers' Compensation Insurers

H.P. 781 L.D. 1054

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

- MCCORMICK of Kennebec
- CAREY of Kennebec
- KIEFFER of Aroostook

Representatives:

- PINEAU of Jay
- HALE of Sanford
- TRACY of Rome
- CARLETON of Wells
- RAND of Portland
- KUTASI of Bridgton
- JOSEPH of Waterville
- TOWNSEND of Canaan
- ERWIN of Rumford

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-403)**.

Signed:

Representative:

- CAMPBELL of Holden

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Which Reports were **READ**.

The Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

**Divided Report**

The Majority of the Committee on **HUMAN RESOURCES** on Bill "An Act to Prohibit Smoking in Restaurants"

H.P. 496 L.D. 654

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-357)**.

Signed:

Senator:

- PARADIS of Aroostook

Representatives:

- TREAT of Gardiner
- BRENNAN of Portland
- FITZPATRICK of Durham
- BRUNO of Raymond
- BEAM of Lewiston
- TOWNSEND of Portland
- JOHNSON of South Portland
- PENDEXTER of Scarborough

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Senators:

BALDACCI of Penobscot  
HARRIMAN of Cumberland

Representatives:

PENDLETON of Scarborough  
GEAN of Alfred

Comes from the House with the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Which Reports were **READ**.

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending **ACCEPTANCE** of Either Report.

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**Divided Report**

The Majority of the Committee on **STATE & LOCAL GOVERNMENT** on Bill "An Act to Require that the Clerk-of-the-works on State Construction Projects be Employed by the Owner, not the Architect"

H.P. 219 L.D. 287

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

BERUBE of Androscoggin  
ESTY of Cumberland  
BUTLAND of Cumberland

Representatives:

LOOK of Jonesboro  
GRAY of Sedgwick  
WALKER of Blue Hill  
ROWE of Portland  
DUTREMBLE of Biddeford

The Minority of the same Committee on the same subject reported that the same **Ought to Pass** as **Amended by Committee Amendment "A" (H-382)**.

Signed:

Representatives:

BENNETT of Norway  
AHEARNE of Madawaska  
YOUNG of Limestone  
JOSEPH of Waterville  
KILKELLY of Wiscasset

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-382)**.

Which Reports were **READ**.

The Chair moved that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**.

On motion by Senator **WEBSTER** of Franklin, Tabled until Later in Today's Session, pending **ACCEPTANCE** of the Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**.

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**Divided Report**

The Majority of the Committee on **UTILITIES** on Bill "An Act to Ensure Economic Benefits from Purchases by Generators of Nuclear Power"  
H.P. 289 L.D. 376

Reported that the same **Ought to Pass** as **Amended by Committee Amendment "A" (H-347)**.

Signed:

Senator:

CLEVELAND of Androscoggin

Representatives:

CLARK of Millinocket  
CASHMAN of Old Town  
ADAMS of Portland  
KONTOS of Windham  
COFFMAN of Old Town  
HOLT of Bath

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Senators:

VOSE of Washington  
CARPENTER of York

Representatives:

MORRISON of Bangor  
DONNELLY of Presque Isle  
TAYLOR of Cumberland  
AIKMAN of Poland

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-347)**.

Which Reports were **READ**.

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending **ACCEPTANCE** of Either Report.

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

**PAPERS FROM THE HOUSE**

**Non-concurrent Matter**

HOUSE REPORTS - from the Committee on **STATE & LOCAL GOVERNMENT** on Bill "An Act to Improve Communication between the Executive and Legislative Branches"

H.P. 419 L.D. 538

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-251).**

Minority - **Ought Not to Pass.**

In House, May 18, 1993, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-251).**

In Senate, May 20, 1993, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED** in **NON-CONCURRENCE.**

Comes from the House, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE.**

On motion by Senator **ESTY** of Cumberland, the Senate **INSISTED** and **JOINED IN A COMMITTEE OF CONFERENCE.**

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**Non-concurrent Matter**

Bill "An Act Related to Mortgage Companies"  
S.P. 177 L.D. 591  
(C "A" S-121)

In Senate, May 11, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-121).**

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-121) AS AMENDED BY HOUSE AMENDMENT "A" (H-417)** thereto, in **NON-CONCURRENCE.**

On motion by Senator **ESTY** of Cumberland, the Senate **RECEDED** and **CONCURRED.**

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**Non-concurrent Matter**

Bill "An Act to Amend the Mutual Holding Company Laws"  
H.P. 477 L.D. 614  
(S "A" S-175 to C  
"A" H-305)

In House, May 18, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-305).**

In Senate, May 21, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-305) AS AMENDED BY SENATE AMENDMENT "A" (S-175)** thereto, in **NON-CONCURRENCE.**

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-305) AS AMENDED BY HOUSE AMENDMENT "A" (H-406)** thereto, in **NON-CONCURRENCE.**

On motion by Senator **ESTY** of Cumberland, the Senate **RECEDED** and **CONCURRED.**

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**Non-concurrent Matter**

Bill "An Act to Amend Maine's Unclaimed Property Act"  
S.P. 185 L.D. 621  
(C "A" S-132)

In Senate, May 17, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-132).**

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-132) AS AMENDED BY HOUSE AMENDMENT "A" (H-405)** thereto, in **NON-CONCURRENCE.**

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

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**Non-concurrent Matter**

Bill "An Act to Enhance Voters' Rights in Budget Approval of School Districts" (Emergency)  
S.P. 252 L.D. 771  
(C "A" S-163)

In Senate, May 20, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-163).**

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-163) AS AMENDED BY HOUSE AMENDMENTS "A" (H-407) AND "B" (H-416)** thereto, in **NON-CONCURRENCE.**

The Senate **RECEDED** and **CONCURRED.**

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**Non-concurrent Matter**

HOUSE REPORTS - from the Committee on **LEGAL AFFAIRS** on Bill "An Act Concerning Limits on Security Deposits"  
H.P. 898 L.D. 1213

Majority - **Ought Not to Pass.**

Minority - **Ought to Pass.**

In House, May 18, 1993, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED.**

In Senate, May 24, 1993, the Minority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED** in **NON-CONCURRENCE.**

Comes from the House, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE.**

Senator **ESTY** of Cumberland moved that the Senate **INSIST** and **JOIN IN A COMMITTEE OF CONFERENCE.**

Senator **WEBSTER** of Franklin moved that the Senate **RECEDE** and **CONCUR.**

**THE PRESIDENT:** The pending question before the Senate is the motion of Senator **WEBSTER** of Franklin, that the Senate **RECEDE** and **CONCUR.**

The Chair ordered a Division.

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

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

14 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion of Senator **WEBSTER** of Franklin, to **RECEDE** and **CONCUR**, **FAILED.**

On motion by Senator **ESTY** of Cumberland, the Senate **INSISTED** and **JOINED IN A COMMITTEE OF CONFERENCE.**

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

**COMMITTEE REPORTS**

**Senate**

**Ought to Pass**

Senator **CIANCHETTE** for the Committee on **BUSINESS LEGISLATION** on Bill "An Act to Amend Certain Corporate Laws"

S.P. 455 L.D. 1422

Reported that the same **Ought to Pass.**

Which Report was **READ** and **ACCEPTED.**

The Bill **READ ONCE.**

The Bill **LATER ASSIGNED FOR SECOND READING.**

**Ought to Pass As Amended**

Senator **LAWRENCE** for the Committee on **ENERGY & NATURAL RESOURCES** on Resolve, Authorizing the Conveyance of Certain Camp Lease Lots on Public Lands, the Exchange of Certain Rights-of-way for Fee Simple Interest in Land, the Conveyance of Certain Timber and Grass Rights through Release Deeds and the Extension of a Road Construction Use Permit Right-of-way for a Period of 99 Years (Governor's Bill)

S.P. 495 L.D. 1515

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-199).**

Which Report was **READ** and **ACCEPTED.**

The Resolve **READ ONCE.**

Committee Amendment "A" (S-199) **READ** and **ADOPTED.**

The Resolve as **Amended**, **LATER ASSIGNED FOR SECOND READING.**

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

**COMMITTEE REPORTS**

**Senate**

**Ought to Pass As Amended**

Senator **CIANCHETTE** for the Committee on **BUSINESS LEGISLATION** on Bill "An Act to Amend the Professional Surveyors Licensing Requirements" (Emergency)

S.P. 462 L.D. 1454

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-201).**

Which Report was **READ** and **ACCEPTED.**

The Bill **READ ONCE.**

Committee Amendment "A" (S-201) **READ** and **ADOPTED.**

The Bill as **Amended**, **LATER ASSIGNED FOR SECOND READING.**

**Senate at Ease**

Senate called to order by the President.

Senator **ESTY** of Cumberland was granted unanimous consent to address the Senate off the Record.

Senator **CARPENTER** of York was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

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Senator **BALDACCI** of Penobscot was granted unanimous consent to address the Senate off the Record.

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Senator **PEARSON** of Penobscot was granted unanimous consent to address the Senate off the Record.

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Senator **CAREY** of Kennebec was granted unanimous consent to address the Senate off the Record.

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On motion by Senator **O'DEA** of Penobscot, **RECESSED** until 4:00 this afternoon.

After Recess

Senate called to order by the President.

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

**COMMITTEE REPORTS**

**Senate**

**Ought to Pass As Amended**

Senator **O'DEA** for the Committee on **EDUCATION** on Bill "An Act to Allow for the Expenditure of Certain School Construction Funds Elsewhere in the District"

S.P. 192 L.D. 628

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-206)**.

Which Report was **READ** and **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-206) **READ** and **ADOPTED**.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING**.

Senator **O'DEA** for the Committee on **EDUCATION** on Bill "An Act to Enhance the Role of the State Board of Education"

S.P. 209 L.D. 680

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-205)**.

Which Report was **READ** and **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-205) **READ** and **ADOPTED**.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING**.

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Senator **HALL** for the Committee on **LEGAL AFFAIRS** on Bill "An Act to Clarify Maine Election Laws"

S.P. 268 L.D. 805

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-207)**.

Which Report was **READ** and **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-207) **READ** and **ADOPTED**.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING**.

---

Senator **HALL** for the Committee on **LEGAL AFFAIRS** on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine to Transfer the Responsibility for Recounts of Elections to the Judicial Branch

S.P. 475 L.D. 1474

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-208)**.

Which Report was **READ** and **ACCEPTED**.

The Resolution **READ ONCE**.

Committee Amendment "A" (S-208) **READ** and **ADOPTED**.

The Resolution as **Amended, TOMORROW ASSIGNED FOR SECOND READING**.

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**Divided Report**

The Majority of the Committee on **LABOR** on Bill "An Act to Establish a Full Employment Program as a Pilot Project in Certain Counties of the State"

S.P. 212 L.D. 683



Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-204)**.

Signed:

Senators:

LUTHER of Oxford  
BEGLEY of Lincoln

Representatives:

AIKMAN of Poland  
LINDAHL of Northport  
COFFMAN of Old Town  
CHASE of China  
CARR of Sanford  
CLEMENT of Clinton  
LIBBY of Buxton

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Senator:

HANDY of Androscoggin

Representatives:

SULLIVAN of Bangor  
RUHLIN of Brewer  
ST. ONGE of Greene

Which Reports were **READ**.

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending **ACCEPTANCE** of Either Report.

**Divided Report**

The Majority of the Committee on **LEGAL AFFAIRS** on Bill "An Act Establishing Weapons License Reciprocity"

S.P. 388 L.D. 1183

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-209)**.

Signed:

Senators:

CAREY of Kennebec  
HALL of Piscataquis

Representatives:

TRUE of Fryeburg  
DAGGETT of Augusta  
MICHAEL of Auburn  
BOWERS of Washington  
GAMACHE of Lewiston  
STEVENS of Sabattus  
NASH of Camden  
ROBICHAUD of Caribou  
LEMKE of Westbrook  
BENNETT of Norway

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Senator:

HANDY of Androscoggin

Which Reports were **READ**.

The Chair moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending **ACCEPTANCE** of the Majority **OUGHT TO PASS AS AMENDED** Report.

**SECOND READERS**

The Committee on **Bills in the Second Reading** reported the following:

**House**

Bill "An Act to Maintain Confidentiality of Medical Information Reported to the Department of Human Services"

H.P. 945 L.D. 1274

Which was **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**, in concurrence.

**House As Amended**

Bill "An Act to Ensure Equitable Treatment of Manufactured Home Owners"

H.P. 309 L.D. 397  
(C "A" H-397)

Bill "An Act to Provide for Affordable Cooperative Housing in the State"

H.P. 553 L.D. 749  
(C "A" H-398)

Resolve, Creating the Maine State 175th Anniversary Commemoration Commission

H.P. 877 L.D. 1191  
(C "A" H-404)

Bill "An Act to Amend the Laws Related to Concealed Weapon Permits"

H.P. 951 L.D. 1280  
(C "A" H-402)

Bill "An Act to Amend the Laws Concerning Medicare Supplement Insurance"

H.P. 1013 L.D. 1359  
(C "A" H-413)

Bill "An Act to Establish Multidisciplinary Reviews of Child Abuse and Neglect Fatalities and Serious Injuries and to Provide Access to Confidential Information for the Multidisciplinary Reviews"

H.P. 1031 L.D. 1383  
(C "A" H-410)

Resolve, to Create the Healthy Start Task Force (Emergency)

H.P. 1049 L.D. 1401  
(C "A" H-409)

Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**, in concurrence.

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**Senate**

Bill "An Act to Amend Certain Corporate Laws"  
S.P. 455 L.D. 1422

Which was **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**.

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

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**Senate As Amended**

Bill "An Act to Minimize Electric Rates"  
S.P. 307 L.D. 940  
(C "A" S-159)

Bill "An Act to Amend the Professional Surveyors Licensing Requirements" (Emergency)  
S.P. 462 L.D. 1454  
(C "A" S-201)

Resolve, Authorizing the Conveyance of Certain Camp Lease Lots on Public Lands, the Exchange of Certain Rights-of-way for Fee Simple Interest in Land, the Conveyance of Certain Timber and Grass Rights through Release Deeds and the Extension of a Road Construction Use Permit Right-of-way for a Period of 99 Years (Governor's Bill)  
S.P. 495 L.D. 1515  
(C "A" S-199)

Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**.

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

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

**COMMITTEE REPORTS**

**House**

**Ought to Pass As Amended**

The Committee on **ENERGY & NATURAL RESOURCES** on Bill "An Act to Amend the Natural Resources Protection Laws"

H.P. 936 L.D. 1259

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-412)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-412)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-412) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

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The Committee on **ENERGY & NATURAL RESOURCES** on Bill "An Act Concerning Duplicate Fees Required by the Department of Environmental Protection"

H.P. 1023 L.D. 1375

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-411)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-411)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-411) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

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The Committee on **LEGAL AFFAIRS** on Bill "An Act Authorizing Presidential Preference Primary Elections in the State"

H.P. 114 L.D. 156

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-401)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-401)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-401) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

The Committee on **LEGAL AFFAIRS** on Bill "An Act Concerning the Operation of Aircraft under the Influence of Intoxicating Liquor or Drugs"  
H.P. 1084 L.D. 1450

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-400)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-400)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-400) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

**Divided Report**

The Majority of the Committee on **HUMAN RESOURCES** on Bill "An Act to Eliminate the Prescription Requirement for Hypodermic Syringes"  
H.P. 587 L.D. 791

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-388)**.

Signed:

Senators:  
PARADIS of Aroostook  
BALDACCI of Penobscot

Representatives:  
TREAT of Gardiner  
BRENNAN of Portland  
BRUNO of Raymond  
PENDLETON of Scarborough  
GEAN of Alfred  
TOWNSEND of Portland  
JOHNSON of South Portland  
FITZPATRICK of Durham  
BEAM of Lewiston  
PENDEXTER of Scarborough

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Senator:  
HARRIMAN of Cumberland

Comes from the House with the Majority **UGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-388) AS AMENDED BY HOUSE AMENDMENT "A" (H-418)** thereto.

Which Reports were **READ**.

Senator **ESTY** of Cumberland, moved to Table 1 Legislative Day, pending **ACCEPTANCE** of Either Report.

Senator **ESTY** of Cumberland requested and received leave of the Senate to withdraw his motion to Table 1 Legislative Day, pending **ACCEPTANCE** of Either Report.

On further motion by same Senator, Tabled until Later in Today's Session, pending **ACCEPTANCE** of Either Report.

**Divided Report**

The Majority of the Committee on **HUMAN RESOURCES** on Bill "An Act to Promote Financial Responsibility and Family Planning" (Governor's Bill)  
H.P. 1115 L.D. 1510

Reported that the same **Ought Not to Pass**.

Signed:

Senator:  
PARADIS of Aroostook

Representatives:  
BEAM of Lewiston  
TREAT of Gardiner  
TOWNSEND of Portland  
BRUNO of Raymond  
PENDLETON of Scarborough  
BRENNAN of Portland  
FITZPATRICK of Durham  
GEAN of Alfred  
JOHNSON of South Portland

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-414)**.

Signed:

Senator:  
HARRIMAN of Cumberland

Representative:  
PENDEXTER of Scarborough

Comes from the House with the Majority **UGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Which Reports were **READ**.

Senator **HARRIMAN** of Cumberland moved that the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE**.

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending the motion by Senator **HARRIMAN** of Cumberland to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE**.

**Divided Report**

The Majority of the Committee on **LEGAL AFFAIRS** on Bill "An Act to Further Discourage the Smoking of Cigarettes by Minors"

H.P. 454 L.D. 580

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-396)**.

Signed:

Senators:

- CAREY of Kennebec
- HANDY of Androscoggin
- HALL of Piscataquis

Representatives:

- DAGGETT of Augusta
- LEMKE of Westbrook
- MICHAEL of Auburn
- BOWERS of Washington
- STEVENS of Sabattus
- BENNETT of Norway
- NASH of Camden
- ROBICHAUD of Caribou

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Representatives:

- GAMACHE of Lewiston
- TRUE of Fryeburg

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-396)**.

Which Reports were **READ**.

The Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-396) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

**ENACTORS**

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

**Emergency**

An Act to Extend the Repeal Date of the Laws Governing Biosynthetic Bovine Somatotropin

S.P. 198 L.D. 634  
(S "A" S-123 to C  
"A" S-105)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending **ENACTMENT**.

**Off Record Remarks**

Senate at Ease

Senate called to order by the President.

**ORDERS OF THE DAY**

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

**HOUSE REPORTS** - from the Committee on **BANKING & INSURANCE** on Bill "An Act to Amend the Workers' Compensation Laws"

H.P. 530 L.D. 714

Majority - **Ought Not to Pass**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-259)**

Tabled - May 25, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Minority **OUGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE**

(In Senate, May 20, 1993, **ACCEPTANCE** of Majority **OUGHT NOT TO PASS** Report **FAILED**.)

(In House, May 19, 1993, Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator McCormick.

Senator **MCCORMICK:** Thank you Mr. President, Ladies and Gentlemen of the Senate. As we were discussing this morning, I had passed out to you a sheet that MEMIC put together to answer some of the

questions that arose in our last discussion. Maybe you have thrown it away but it has their logo on the top and I'd like to go over some of the points. As you recall this is the Bill that would allow employers of six and under to opt out of the Workers' Compensation system. I would urge you to vote against the passage of this measure as it would completely work against the reforms that, as you can see if you have this sheet in front of you, are working very well. First of all, you will be interested to know that claims are down over the same period of last year and that these claims are down by an excess of 20% this year. Not only that, but claims with an attorney involved are down. So far this year there has been 106 claims and only 2 have had attorney involvement. Last year, during this same period, there were 25 to 30 claims with attorney involvement, so that the Workers' Compensation reforms that were passed last October are working. Not only that but with the coming of MEMIC competition has returned to the Workers' Compensation market, there are now five, count them five, companies have returned to the State and are providing voluntary Workers' Compensation insurance and I can attest to that in my own case. My company, Women Unlimited, has always been in the involuntary market and the minute we passed MEMIC our insurer came and said we think we found a voluntary insurer that's going to insure this little company of just five or six employees. Lastly, MEMIC is, as you saw last time on the sheets that I passed out, has had alternative rating programs approved by the Superintendent of Insurance. They went into effect last week in some cases, they are already writing policies on these new programs and, if you will recall, they allow employers to get savings of up to 15% and more on their premium if they have good safety practices or good safety records. These products will affect 80% of your employers, 80% of all Maine employers will be able to get discounts on their premiums with these products. That, I hope, raises your comfort level about whether or not the system is working and about whether or not competition is returning to the system.

The other aspect of this Bill, which the Chamber of Commerce highlighted in their testimony, and I would just like to read a couple of the questions that the Chamber felt had to be answered in order for us to move forward in passing such a Bill as this. Who will be responsible for paying claims that exceed liability insurance levels at the Chamber? In addition, who would pay for an employer's claim if an employer could not afford to do so out of pocket? Another question, would this legislation place employers who have seven or more employees at a competitive disadvantage? Another important issue that must be addressed is whether liability insurers and health insurers have the capacity and the expertise to aggressively manage claims. Remember, I'm sure you have all heard of Northern MGA, the infamous company who took the 26.5% servicing fee and did nothing with it. There was no claims management, claims management has been an issue that has even percolated into the rate case and rate decision of last December when the Superintendent of Insurance actually fined insurers for bad servicing practices and investment practices, and servicing management practices. So the Chamber asked very accurately who will be doing that now. They also ask what effect will this have on MEMIC, about 60% of the companies in the residual market have six or fewer employees. If those employers were to opt out wouldn't that effectively cripple MEMIC? The success of MEMIC is central to the success of the '92 reforms and to the lowering of Workers' Compensation Insurance costs.

This is the Chamber speaking. Finally, who will pay for the Fresh Start surcharge? Will employers of only seven or more pay for the Fresh Start surcharge? I can tell you that I, as an employer of seven or more, do not want to be the only person left holding the bag of the now \$500 million to \$900 million deficit that the Fresh Start surcharge is levied to handle.

I just wanted to raise those questions. It's not at all clear, as a matter of fact a lot of people think that both employers and employees will be hurt by such a system. Employees will not be sure that they will be able to have adequate Workers' Compensation coverage, it will go back to be lawyer driven system and employers, who wrongly believe that for some reason they can qualify for this opt out exemption, and fail to obtain the adequate Workers' Compensation coverage will find that the consequences can be quite severe. They might personally be liable for their employees Workers' Compensation benefits and other severe consequences as well. So please, let's give this a chance to work. Central to the Blue Ribbon reform is MEMIC and the reforms that I have proven to you are now working. Let's give them more than 5 months before we start tinkering with the system. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Kieffer.

Senator **KIEFFER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I don't intend to go over the issues we have debated previously. I would just like to make a response to what was said as far as the small employers of six or less. If they are drastically needed by MEMIC that would indicate to me that the small employers are, in fact, subsidizing the larger employers. If that is true, I would be very upset about that as a small employer. Secondly, in this week's newspaper I have concerns over the operations of MEMIC, I certainly realize that MEMIC is drastically needed, we need them today, we will need them in the future, but when I see articles about them expanding to 33,000 square feet at a rate of approximately \$13 per square foot, which generates red of some \$6 million a year, when I see them expanding from 70 employees to 130 employees at a time when we are all trying to hold back spending of every type, I will grant you that this is not tax money, but it is money that is generated from the business community through the rating process. That would develop somewhere in the vicinity of another \$6 million in payroll. Any of you that run an office or a business know that payroll and rent generally will develop approximately 60% of your overhead cost, so somewhere just in this company alone we have gone from what was previously in the vicinity of \$5 million in operations of the Industrial Accident Commission, which did some of this same work, not entirely all of it, we're going to be looking at somewhere in the \$12 million to \$15 million bracket. I think that's worthy of consideration.

I still believe this is a good Bill, it may not be a cure-all, we certainly don't have a cure-all now, but again, I believe it is worth a try. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator McCormick.

Senator **MCCORMICK:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Just to answer the good Senator from Aroostook, Senator Kieffer's, points, the issue of whether small employers are

subsidizing large employers is a red herring I think. There is the whole concept of a pool and it occurs in health insurance and it occurs in any kind of insurance and if you take any segment of that pool out it will affect the rest of the pool. It does not matter if it affects it up or if it affects it down, it will unlevel the playing field and that is exactly what will happen. You cannot purport to take 60% of a pool out of the pool and have the rest of the pool exist the way it did before. Secondly I want to address the Senator's concerns about MEMIC and its expansion into larger space in Portland. First of all I have here, which I can pass out to the Senator and to any other Senator who wants, a list of all the State funds, it looks like 15 or 20, how many numbers of employers they have, the number of businesses they insure, and the written or earned premium and the Maine Employers Mutual is the lowest employee per premium dollar ration among all of the State Mutuals and State Funds, the lowest. We have 125 employees, we insure 22,000 companies, that will go up by the end of this year to 175 employees and we have written \$200,000 worth of premiums. That is lower than any other State fund or Mutual fund in the whole country, even at the end of 1993 levels. The Oregon plant, which has been highly touted here, employs 1100 people, 4 or 5 times our number, they insure 28,000 businesses, 6000 more businesses than we do and they have written less premium dollars, \$176 million. The same is true for Oklahoma, Pennsylvania, Arizona, they all have many more employees per premium dollar than does the Maine Employers Mutual Fund. The reason they are moving is because they ran out of space. They have occupied all 12,000 feet that exists in Westbrook and they need to continue populating their company the way their plan has ordained. So I would like you to keep those two things in mind as well and please vote Ought Not to Pass on L.D. 714. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Somerset, Senator Cianchette.

Senator **CIANCHETTE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I am still concerned about the small businesses in this State being able to stay in business and employ people. I'm not sure of all the numbers we have heard and if I have this right or not, but I think I heard something like 80% of the businesses are going to be getting a reduction in their fees, that leaves 20% who won't be, if I heard that right, and 20% of the small businesses, about 8000 small businesses who will not be getting a reduction in these fees. It's these businesses that this body needs to be concerned about and needs to deal with. I want to continue to shower my praises on MEMIC for doing a good job and setting up very rapidly and doing what they can to lower the rates. I think they are doing a good job. I wouldn't ask them to do any better than they are doing today but that does not satisfy the needs of those 8000 businesses out there that need some relief. I do believe there is a better way and I do believe if we could get people talking that we could come up with a better way to reduce the rates to these people. That's what I am asking for and that I am expecting and that's what I want and if we keep this Bill alive we have an opportunity to get people sitting down and working together, maybe to come up with an alternative plan that would fit everybody much better. I would ask you to continue to keep this Bill alive and to vote for the motion. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Piscataquis, Senator Hall.

Senator **HALL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. It was good news that we heard that MEMIC is making some gains. I'd like to speak to a couple of the items. Number one, it was mentioned that perhaps what would someone with seven employees do, perhaps they would lay one off and get down to six so they could get into the plan. On the other hand the one that has five employees would probably add one if it wasn't going to cost them anything extra. This Bill simply gives those small businesses a choice. I do not believe that they would all jump on this and go out and pick up a million dollar liability insurance. Some may, if it's going to save them substantial money. If it was not substantial they probably wouldn't try it. I have heard from many of my small businesses that have had increases of 30% and 40+% in their Workers' Compensation premiums. They can't afford it. I understand that through MEMIC, perhaps in two or three years, premiums will be reduced and I truly hope that is so, but I have some businesses that cannot wait two or three years, they are going to go under, they are going to close their doors. I'm asking you to give those people a choice of whether to stay with MEMIC or come along with some sort of an insurance liability policy. If we do not do this than I'm afraid we are going to have a lot less businesses. I understand there are more companies that are coming in to sell Workers' Compensation, the only problem I have with what I am hearing there is they are picking the cream of the crop, the low risk companies, which will leave just high risk for MEMIC to handle. That will not be good either. We need to be careful, let's give these small businesses a choice. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator McCormick.

Senator **MCCORMICK:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I cannot tell you how hasty we would be if we passed this Bill and how sorry the good Senator from Aroostook would be if we passed this Bill. I do not think it would serve the small employers in his district well at all, I think they would find themselves without a product to go to. Have you listened to any of the insurers that have been around for the last couple of days, they hold up their hands and they say there is no liability policy for the small employers to go to. The only market is for the seasonal agricultural industry. There is no product, there is no market, we will be creating a void, a vacuum, and yes, you can say wouldn't you all scramble to make a product like this and they said well yes, but it has to be passed through the Bureau of Insurance and they are very strict with their guidelines and they also have to obey the law which says that there has to be a certain amount of coverage. This Bill does not give it. I ask you please to allow the Blue Ribbon Commission to work for more than five months. It is working, there is competition, there is more writing in the voluntary market, every goal that we said we wanted to attain is starting to happen. 80% of the small businesses in your districts will be able to get lower rates with the alternative rating practices. To the good Senator from Somerset, Senator Cianchette, who is worried about the other 20 businesses, I, too, am worried about those businesses but I pose to him that those probably that now have a high experience mod rating or are not accident free for the last year, or who are not willing to enter into a stop loss program, and yes, we need to pay attention to those businesses and the way to pay attention to it is good claims management, which

MEMIC has, which you see the product of on your television because they are starting to advertise to get us into a culture of safety. The health insurers and the liability insurers are not set up for that kind of claims management and this is just hasty and ill advised. It will turn Workers' Compensation on its head and I urge you to vote against L.D. 714. Thank you.

Senator **KIEFFER** of Aroostook requested a Division.

On motion by Senator **WEBSTER** of Franklin, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

The President requested that the Sergeant-at-Arms escort the Senator from Penobscot, Senator **BALDACCI** to the Rostrum where he assumed the duties as President Pro Tem.

The President took a seat on the Floor of the Senate.

The Senate called to Order by the President Pro Tem.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from York, Senator Dutremble.

Senator **DUTREMBLE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I have been told somewhere along the line that you should never come down from the Rostrum if you don't have the votes because you don't look good if you do that. I'm going to do it anyway because this issue is so important to me that I feel like I would be shirking my own responsibilities if I didn't come down and speak on this issue. I've been dealing with this particular issue since I have been in the legislature and, more particularly, since 1983 when I used to be the Chair for the Committee on Labor. So I know a lot about Workers' Compensation. It seems to me that the Workers' Compensation problems that we tried to deal with in the '80's had to do with bills and laws that were passed in a rash judgement in the '70's. There was this big jump on the bandwagon type of movement that was on during the '70's to increase the benefits, to make changes in the Workers' Compensation, to make it better for us and to make it better for workers and to make it better for employers and what happened is everything came tumbling down. In the '80's we started to try to fix the problems caused by all the legislation passed in the '60's and '70's. I'm here to say that we are now going back onto the same type of movement. We have had long, deliberate discussions on the issue of Workers' Compensation in the past two years. Some of you may forget that two years ago how drastic it really was when this whole State was shut down because of the issue of Workers' Compensation. I have not forgotten and I think we should remember that. This State was shut down, not because of the budget, it was shut down because of the issue of Workers' Compensation. Out of that shut down came the Blue Ribbon Commission and the discussion that was taken the following year, and what you see here is part of it. It was an agreement amongst all of

the factions, the group that worked on it, to come up with what we have. Part of that was MEMIC.

Some people seem to feel that we should just forget that, throw it away. Even after a lot of us came here this year and said we will not deal with anything major on Workers' Compensation, we have created a Workers' Compensation Board to do that. We said we would let the Board take care of it and we will get the politics out of it. The ink is not even dry on the paper yet and we are here making a major change. This is a major change, make no mistake about it, this is a major mistake. Let me tell you why I think this is a mistake. In the year's that I have tried to reform Workers' Compensation, two groups that we tried to make accountable, the attorneys and the insurance companies, it seemed that the two groups that Workers' Compensation was supposed to benefit, the employers and the employees, the two groups that Workers' Compensation was supposed to be there for, were the two being hurt the most by it. While the two on the outside, the attorneys and the insurance companies, seemed to be doing quite well. Now we have MEMIC, which for the first time, we have an insurance company that will force insurance companies, we have our own insurance company, it will force them to compete. It will force them. What are we doing, we are throwing it away. All the change that we made on Workers' Compensation, if you go ask your self insureds, they are going to tell you they made some drastic savings because of the reforms that we made. We made some changes and they saved the money. Yet the small businessmen in this State continue to complain that they never saw any of the cuts. Theirs continued to increase. Why is that? I'm sure we all remember that every time we passed a Bill we would see \$40 million in savings and \$70 million in savings, and yet the small businessmen and women of the State never saw it. The self insureds did. Where did that money go? The insurance companies were not servicing their employers. For the first time we have a competing insurance company that said if you don't do it we are going to do it. We are throwing it away. What are we throwing it away with? We are throwing it away with saying that employers with under six employees can go out and buy a health insurance policy, a liability insurance policy, a disability insurance policy. Who's making out again here? I don't know about you but I wish I was in the insurance business.

Then we have a liability. Attorneys are coming back into it. How long have everybody, Democrats and Republicans, told me to get the attorneys out of it. Little by little we have. Now we have a liability policy so that employees can sue, bring the attorneys back in, bring it into court, and jam up all the courts. I'm telling you that this is a mistake, it's a rash judgement, the same kind that was made in the '70's when people made the changes to the Workers' Compensation system and we have paid for it. We have been paying for it ever since. I'm asking you to really think hard before you make this vote. It is a mistake. Thank you.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Kennebec, Senator Carey.

Senator **CAREY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I look at the Bill, I look at the amendment, and the amendment immediately indicates to me that this is an insurance man's dream and a lawyer's bonanza. The people who go in under that particular system that is proposed with this motion will not have the benefits of being protected

from workers' liability, in that the worker can in fact sue, unlike the MEMIC proposal. There is no staircase here where your rates would actually go down as you go along, unlike the one that we have in MEMIC, so I would certainly hope that you would take those things into consideration when you vote. Thank you.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Kennebec, Senator Bustin.

**Senator BUSTIN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. If you will look on the Bill you will see that I am one of the cosponsors of this Bill, however I can't and won't vote for it. It does something different than what I thought it did when I signed that Bill. You might remember, those of you who were here, when we passed the reform act, that I voted against that reform to the Workers' Compensation because I didn't think it would work, I still don't think it will work. I think that we have got to stop the deadlock on the Commission itself. I've put that on Record before and I will put it on Record now. If you pass this Bill, what you do is destroy everything that the other side have attempted to do. I lost on that vote two years ago, I can accept defeat, and I can then get on board with what the bodies have voted for. This legislature voted for that reform, the last legislature voted for that reform, they ought to have a chance to make it work no matter how much I may think that there ought to have been something different, no matter how much I may think that we ought to have 24 hour health coverage and take out 40% of the health care dollar out of that Workers' Compensation Bill. This is not the way to approach the problem. We must defeat this Bill and go on and do something that is realistic for Workers' Compensation. Thank you.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Franklin, Senator Webster.

**Senator WEBSTER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. As members of this body, including the good Senator from Penobscot, Senator Pearson, and the good Senator from Hancock, Senator Foster, and others work diligently to balance our budget this is one proposal that we ought to be looking at. It seems to me that the legislature has spent a lot of time talking about how we are either going to cut programs or raise revenue. It seems to me there is a missing ingredient and perhaps this is it. I didn't take the pledge that some people did when it came to coming here to the legislature this session and not voting to change Workers' Compensation. The only way Maine is going to get back on the right track is to change Workers' Compensation, to change some of the regulatory laws we have including those laws within the Department of Environmental Protection, we need to change some laws if we are going to put people back to work. It seems to me that this is a jobs Bill. Anyway you look at it this is a jobs Bill because I will tell you right now that if this kind of Bill doesn't pass you can kiss another 3000 or 4000 or 5000 jobs away. Maybe if we pass this Bill there may be additional employment in this State, because I can tell you right now that anyone who is serious about creating a job and expanding their business in this State is going to think twice. This legislature needs to be more aggressive in changing our laws and make Maine better so that we can have employment. This Bill may not be the best Bill we can possibly pass to head us in this direction but we can't just sit on our hands and say we will wait.

Ten years ago this legislature I heard that argument, we will just wait. Well the time has come that businesses are packing up, leaving Maine every single week, either going out of business or going to our neighbor, New Hampshire. The time has come when we need to do something to create jobs, and this may not be the best, but it's the best thing we have today. It may be the only Bill that this legislature can pass which will improve the business climate and help put Maine workers back to work. This is indeed a jobs Bill and you should for that or against that today based on that assumption. Thank you.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from York, Senator Dutremble.

**Senator DUTREMBLE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. The Senator from Franklin, Senator Webster, made some good points. A lot of us didn't wait ten years a lot of us didn't sit on our hands, those of you who were here within the last ten years know that we did a lot more than sit on our hands, we did a lot. I suppose I could start going through the litany of what we did but I don't think anyone wants to be here past 9:00, so we did do quite a bit. Again, I emphasize, self insurers have actually seen the benefits of what we have done although the small business people have not. I don't think there is anybody here more than anybody else who can wrap themselves up in the idea of improving the business climate. I think we are all pretty much in tune with creating jobs in the State of Maine and it doesn't make any difference how many times one person can say it more than another, I think that we all want to improve the business climate in the State of Maine to create jobs and get this economy moving back to where it is supposed to be. There is not a person in here who wants that more than another, not one. I will tell you that I had an interesting conversation this afternoon with the good Senator from Cumberland, Senator Harriman, it's about a company in my hometown, and some of you may remember it because we saved this company a couple of years ago, we fought hard even during the '91 budget problems to try find some seed money so the employees could buy their company. They talked to me this afternoon about the high cost of Workers' Compensation, and how they went up from \$30,000 last year and they will go up to \$240,000 this year, that is devastating. That is absolutely devastating and if there is anything we can do about that then I think we should, this Bill won't do that. I will tell you what they also told me, they told me that that cost was because they were in a high risk pool and they said that if they were in a voluntary market then their cost would be \$130,000. While it is still a far cry up from \$30,000 it is a far cry below \$240,000. It's a \$110,000 difference. Then they said they checked with MEMIC and what the cost would be there and it would be \$133,000, \$3000 difference. That's exactly why we need MEMIC, because MEMIC would force the insurance companies to bring their prices down, it would force them to take this high percentage of people we have in the high risk pool, it would force them to compete and it would create jobs. It would save that plant in Biddeford \$100,000. Right now that plain in Biddeford has got to pay that \$100,000 and they don't know where they are going to get the money. That's why we need MEMIC. There are countless other plants and businesses like that around the State that are just like that company because there is nobody competing with the large insurance companies, they are grabbing the money and they are putting it in their pockets. We have nothing to compete with them. Finally, we



have a company that will say either you service your accounts or we will, and we're throwing it away. It doesn't make any sense to me, it doesn't make any sense at all. For all the years that we spent saying we needed something like this and we finally have it, in a spirit of total compromise last year in a session, we are throwing it away. Small business under six employees, are they picking up the tab for large employers? I don't know. I don't think so. I thought that we were all in this together you know, small employers, large employers, try to rectify this problem with Workers' Compensation. Are we trying to pit small employers against large employers now? That one is good for the State and one is not good for the State, one is going to pay more, one is going to pay less, one can go and get disability insurance and health insurance and one has got to be in Workers' Compensation. What are we doing? We are throwing it all out and we're hoping that it comes out all right. I can tell you that if we have not learned from our experiences in the '70's we are going to have a chance to learn it all over again if we pass this Bill. Thank you.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I think everyone in this chamber would agree that this legislation is not a panacea, it's not going to serve to cure all of the ills of our Workers' Compensation system by any stretch of the imagination. What this legislation does do, though, being permissive is allow those small employers, and I used this analogy earlier in caucus, to decide which guillotine they will put their head under, because it is a guillotine that these small employers are facing. I read a letter to you last week when we discussed this. I'm just going to read you one short paragraph from this employer who said, "So far this year you, and the State, have reached into my pocket for a 61% increase in Workers' Compensation. Although I have never had a claim you have added a surtax on unemployment of .7% to pay for the State's giveaway of additional unemployment benefits, and I have never had an employee collect unemployment from me." I had a call last night from an optometrist, he and his wife operate a business, they hire one secretarial employee and their Worker's Compensation cost has risen 39%, no claim, assigned risk, no claim. Should that individual not have an option to choose this way to go if that's their choice, if they can realize a savings and they want to take the chance, and it is a chance, that possibly they would have a claim above their million dollar liability, are we not going to give that small employer every possibility to survive. If we don't, if one business goes, if two businesses go, that's less State money to run this government. That's something that we have to realize here.

We are not mandating this on the small employer, we are saying this is permissive, you make a business decision either to enter into this or not based on all of the factors involved. I don't think it's fair for those employers who have had no claims, who have had no unemployment costs incurred by their business, to not have every avenue available to them. Those are the employers that we should be doing everything in our capacity to protect and I think this legislation is just that. Thank you.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Oxford, Senator Luther.

Senator **LUTHER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I certainly will agree to play by the rules, but I don't want the rules to change from Bill to Bill. I've been here five years, it has not been my experience when you lose in one session, the next time you come you get on board on the other side. If that were true, why do we have the perennial Bills that come here session after session after session. I was opposed to this Bill, I made no promises last session. I didn't like it then and I really don't like it now. I don't see any difference with MEMIC whether the small businesses fold up and don't pay you or they move out of State and don't pay you, I think you are not listening. There are businesses that cannot pay these rates, they can't pay them, they can't pay them today. Thank you.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator **BERUBE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'd like to say, again, why I will vote for the Minority Report. I'm not talking for or of the large employers because they can fend for themselves most of the time. I'm talking of the small employer who has zippo accidents, stress, carpal tunnel syndrome, whatever, and yet, in the case of one small employer in my home city, their rate was immediately raised 53%, they don't have the liquid to pay it. They were told they could borrow but they have to repay it, with interest obviously. I still can't understand why the large corporations can self insure and yet the agricultural community is exempted and we do not allow for the small employer of six or fewer people to be able to opt out of this expensive program and, indeed, find other methods of purchasing insurance, i.e. medical insurance, income protection and so forth. We are told that if the small employers opt out of MEMIC that it will destroy the program because we need their dollars and yet this little paper that was passed around today said that there are five new insurance companies who are willing to offer voluntary insurance which is less expensive. If that's the case, if all of the small employers opt out of MEMIC and go for the voluntary, they will have the same problem of not receiving the funding from these small employers. I don't think the small employers should be made to pay for the huge capitalization requirements that we didn't have when we started this program. I always believe that if you start a program put the money up front, at least, but don't pass on the burden to someone else. I don't think that the small employer of fewer than six people should have to pay for the \$500,000 advertising campaign that they have contracted for, which will effectively show employers how to prevent accidents. That's a given, any employer knows that he or she should have job safety on the premises but if that is the case they could have spent the half a million dollars much better in training programs for supervisors and employers on how to train them to prevent accidents, not just to alert them and sensitize them to the fact that there should be no accidents in the workplace. Further, I checked with a general insurance agent and I called two of my constituents who have had this problem and both called me back a little while ago and the insurance agent did hear of the five new companies that are offering voluntary insurance and the two constituents both, totally unknown to one another, and I suspect, have different agents, said there is no insurance company that will take them on. One of those two has had nothing, no, zippo, no accidents in 21 years. For those reasons, I want to help the small employer,

I want to give them a little hope that we are trying to do something for them, those are the reasons I shall be voting for the Bill. Thank you.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Cumberland, Senator Summers.

Senator **SUMMERS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I rise to kind of respond to my friend from York County, Senator Dutremble, because I, too, remember the shut down that we went through. I remember the difficult times and the compromise that came out of the shutdown and I applaud that compromise. I think it was something that the whole situation that went on during the shut down, unfortunately, was a very necessary situation because it focused our attention on a very real problem. I understand his points in terms of monkeying with the Blue Ribbon Report, monkeying with MEMIC and everything else, but I also have to look at the very real people that I face every day when I am home in my district. People that I'm associated with. One individual, in particular, who has an individual come in and keep the books and do a little light cleaning, saw a 45% increase in the cost of his Workers' Compensation. This is not a high risk thing. I can think of an individual who runs a filling station in Saco who has laid off three employees because he saw a 39% increase in the cost of Workers' Compensation. He now, not only has displaced three employees in the work force, but he works 7 days a week. He's probably putting in 85 or 90 hours a week just to survive and it is very very hard for me to look beyond those very real faces that I see day in and day out. I know that this is a drastic measure but I would like to call the body's attention to an issue that we will be facing in a few moments. The slogan on one side of the issue is Let the Consumer's Decide, I think perhaps that slogan is better fitted for this particular issue because it is the consumer deciding which direction to go. For as hard as it is in the face of what we went through two years ago during the State shutdown, in light of all those facts, I would still urge the members of this body to support the Minority Report. Thank you.

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The President Pro Tem requested that the Sergeant-at-Arms escort the Senator from York, Senator **DUTREMBLE** to the Rostrum where he resumed his duties as President.

The Sergeant-at-Arms escorted the Senator from Penobscot, Senator **BALDACCI** to his seat on the floor.

Senate called to order by the President.

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**THE PRESIDENT:** The pending question before the Senate is **ACCEPTANCE** of the Minority **OUGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE**.

A vote of Yes will be in favor of **ACCEPTANCE**.

A vote of No will be opposed.

Is the Senate ready for the question?

Senator **CIANCHETTE** of Somerset who would have voted **YEA** requested and received Leave of the Senate to pair his vote with Senator **CLEVELAND** of Androscoggin who would have voted **NAY**.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

**YEAS:** Senators AMERO, BEGLEY, BERUBE, BUTLAND, CAHILL, CARPENTER, GOULD, HALL, HANLEY, KIEFFER, LUDWIG, LUTHER, MARDEN, SUMMERS, VOSE, WEBSTER

**NAYS:** Senators BALDACCI, BRANNIGAN, BUSTIN, CAREY, CONLEY, ESTY, FOSTER, HANDY, HARRIMAN, LAWRENCE, MCCORMICK, O'DEA, PARADIS, PEARSON, PINGREE, TITCOMB, THE PRESIDENT - DENNIS L. DUTREMBLE

**ABSENT:** Senators None

**PAIRED:** Senators CIANCHETTE, CLEVELAND

16 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 2 Senators having paired their votes and No Senators being absent, **ACCEPTANCE** of the Minority **OUGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE**, **FAILED**.

**THE PRESIDENT:** The pending question before the Senate is **ACCEPTANCE** of the Majority **OUGHT NOT TO PASS** Report, in concurrence.

Senator **WEBSTER** of Franklin requested a Division.

On motion by Senator **CONLEY** of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The pending question before the Senate is **ACCEPTANCE** of the Majority **OUGHT NOT TO PASS** Report, in concurrence.

A vote of Yes will be in favor of **ACCEPTANCE**.

A vote of No will be opposed.

Is the Senate ready for the question?

Senator **CIANCHETTE** of Somerset who would have voted **NAY** requested and received Leave of the Senate to pair his vote with Senator **CLEVELAND** of Androscoggin who would have voted **YEA**.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

**YEAS:** Senators BALDACCI, BRANNIGAN, BUSTIN, CAREY, CONLEY, ESTY, FOSTER, HANDY, HARRIMAN, LAWRENCE, MCCORMICK, O'DEA, PARADIS, PEARSON, PINGREE, TITCOMB, WEBSTER, THE PRESIDENT - DENNIS L. DUTREMBLE

**NAYS:** Senators AMERO, BEGLEY, BERUBE, BUTLAND, CAHILL, CARPENTER, GOULD, HALL, HANLEY, KIEFFER, LUDWIG, LUTHER, MARDEN, SUMMERS, VOSE

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ABSENT:** Senators None

**ROLL CALL**

**PAIRED:** Senators CIANCHETTE, CLEVELAND

18 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 2 Senators having paired their votes and No Senators being absent, **ACCEPTANCE** of the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

**YEAS:** Senators AMERO, BEGLEY, BUTLAND, CAHILL, CARPENTER, FOSTER, GOULD, HALL, HANLEY, HARRIMAN, KIEFFER, LUDWIG, MARDEN, SUMMERS, WEBSTER

**NAYS:** Senators BALDACCI, BERUBE, BRANNIGAN, BUSTIN, CAREY, CIANCHETTE, CONLEY, ESTY, HANDY, LAWRENCE, LUTHER, MCCORMICK, O'DEA, PARADIS, PEARSON, PINGREE, TITCOMB, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE

Senator **CAREY** Of Kennebec moved that the Bill and Accompanying Papers be sent forthwith to the Legislative Files.

**ABSENT:** Senator CLEVELAND

Senator **WEBSTER** of Franklin requested a Division.

On motion by Senator **CAREY** of Kennebec, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

15 Senators having voted in the affirmative and 19 Senators having voted in the negative, with 1 Senator being absent, the motion of Senator **HANLEY** of Oxford, to **TABLE 1 LEGISLATIVE DAY**, pending the motion by the Chair to **RECONSIDER ACCEPTANCE** of the Majority **OUGHT NOT TO PASS** Report, in concurrence, **FAILED**.

**THE PRESIDENT:** The Chair recognizes the Senator from Franklin, Senator Webster.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Esty.

Senator **WEBSTER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like to pose a parliamentary inquiry.

**THE PRESIDENT:** The Senator may pose his parliamentary inquiry.

Senator **WEBSTER:** Thank you Mr. President. Is this vote a majority vote or a two-thirds vote? It is my understanding that we would have to suspend the Rules to send this forthwith.

Senator **ESTY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would urge the Senate to vote against the Reconsideration motion that is presently before us so that we can then act on the moving forthwith motion. Please vote against the Reconsideration and I would also ask for a Roll Call.

**THE PRESIDENT:** It would require a two-thirds vote.

On motion by Senator **ESTY** of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

The Chair moved that the Senate **RECONSIDER** its action whereby it **ACCEPTED** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

**THE PRESIDENT:** The Chair recognizes the Senator from Oxford, Senator Luther.

On motion by Senator **WEBSTER** of Franklin, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

Senator **LUTHER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like to pose a question through the Chair. Is the Reconsideration motion a procedural motion?

Senator **HANLEY** of Oxford moved to **TABLE 1 LEGISLATIVE DAY**, pending the motion by the Chair to **RECONSIDER ACCEPTANCE** of the Majority **OUGHT NOT TO PASS** Report, in concurrence.

**THE PRESIDENT:** The Chair would ask the Senator to please repeat her question.

Senator **ESTY** of Cumberland requested a Division.

Senator **LUTHER:** Thank you Mr. President. I was just told that on one of my previous votes I should have voted the other way because it was a procedural vote. I don't really know what we are doing here doing the same thing over and over again. Is the motion before the Senate considered a procedural vote?

On motion by Senator **ESTY** of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The Chair would answer in the negative, it is not a procedural motion it is the main motion.

**THE PRESIDENT:** The pending question before the Senate is the motion of Senator **HANLEY** of Oxford to **TABLE 1 LEGISLATIVE DAY**, pending the motion by the Chair to **RECONSIDER ACCEPTANCE** of the Majority **OUGHT NOT TO PASS** Report, in concurrence.

**THE PRESIDENT:** The pending question before the Senate is the motion of the **CHAIR** to **RECONSIDER ACCEPTANCE** of the Majority **OUGHT NOT TO PASS** Report, in concurrence.

A vote of Yes will be in favor of **TABLING 1 LEGISLATIVE DAY**.

A vote of Yes will be in favor of **RECONSIDERATION**.

A vote of No will be opposed.

A vote of No will be opposed.

Is the Senate ready for the question?

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

**YEAS:** Senators AMERO, BEGLEY, BERUBE, BUTLAND, CAHILL, CARPENTER, FOSTER, GOULD, HALL, HANLEY, HARRIMAN, KIEFFER, LUDWIG, LUTHER, MARDEN, SUMMERS, WEBSTER

**NAYS:** Senators BALDACCI, BRANNIGAN, BUSTIN, CAREY, CIANCHETTE, CONLEY, ESTY, HANDY, LAWRENCE, MCCORMICK, O'DEA, PARADIS, PEARSON, PINGREE, TITCOMB, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE

**ABSENT:** Senator CLEVELAND

17 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 1 Senator being absent, the motion by the **CHAIR** to **RECONSIDER ACCEPTANCE** of the Majority **OUGHT NOT TO PASS** Report, in concurrence, **FAILED**.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

**HOUSE REPORTS** - from the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine to Provide the Governor with a Line-item Veto  
H.P. 948 L.D. 1277

Majority - **Ought Not to Pass**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-338)**

Tabled - May 25, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

(In Senate, May 24, 1993, Reports **READ**.)

(In House, May 24, 1993, Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-338) AS AMENDED BY HOUSE AMENDMENT "A" (H-393)** thereto.)

Senator **TITCOMB** of Cumberland moved that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**.

**THE PRESIDENT:** The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would ask that the Committee Report be read. Thank you.

Which Report was **READ**.

**THE PRESIDENT:** The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I was very encouraged when I saw the Report come out of the Appropriations Committee, having been on a line-item veto Bill in the past, it was good to see a nice, strong, bipartisan vote out of the Appropriations Committee. It is also important to note that this line-item veto, of which 44 States currently have, only 5 of those States allow for a majority override of the line-item veto. The Bill in front of you now only requires a majority vote to override a line-item veto. It is not a two-thirds vote, as 34 States have, it is not a three-fifths vote, as the remainder of the States have. The Bangor Daily News gave a very favorable editorial as far as if we were ever to have a line-item veto, now is the year, the timing is right to hold the legislature and the Governor, both, accountable for the budget. How many times have I heard comments from both sides of the aisle, well it's the legislature that finally adopts the budget so it is the legislature's budget, the Governor doesn't have to be held accountable. This line-item veto, a very reasonable and moderate measure, would hold the Governor accountable. For those of us in the chamber, and I have heard the arguments before, let's hold the Governor accountable, this should be a unanimous report and there should be a unanimous vote from this chamber. You talk about ending gridlock, you talk about ending backroom budget deals, this is it people. There is no hiding, you could not ask for a more moderate reasoned, line-item veto. It only needs a majority vote to override the line-item veto and each line-item that the Governor vetoes must be singularly put forward and have that veto overridden on its merits.

The people of the State of Maine look at our process now, see no accountability on the part of the Governor's Office, the legislature, they see an increase in spending on the State level and the reason for that is the fact that both sides make compromises so that they get what they want. Unfortunately, the people of the State of Maine don't get what they want, they just get a higher tax bill. When are we going to have the fortitude and the courage to say okay, the time is right, the time is now to have some accountability in our budget process. We have taken giant strides in the way this budget process is worked, involving the Committees of jurisdiction, now let's erase this one black mark on our budget process and allow a very reasonable and a very moderate line-item veto to be initiated and instituted. I don't think there are any arguments against that. It's a majority vote to override, every single line-item must be overridden singularly. Men and women of the Senate, the time has come, and I think it's important that when we cast our vote we cast it against the Majority Report and accept the strong bipartisan Minority Ought to Pass as Amended Report. Thank you.

On motion by Senator **HANLEY** of Oxford, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Titcomb.

Senator **TITCOMB:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I happen to feel very strongly that on the Federal level a line-item veto is very important. I do not feel that we have the same depth of problem that would justify a

line-item veto on the State level. I believe that this administration and any administration has full opportunity for meaningful involvement in all budget negotiations that take place. That involvement is right from the beginning of the process to the end. I do not think that the State of Maine has the risks of the pork barrelling types of issues that we see on the Federal level and, frankly, I feel at this point if we initiated a line-item veto then we could certainly look at the potential of having a much longer session than we are looking at right now. Envision us getting to the very end of the process, finally coming up with a budget that is agreeable and then having the line-item veto begin. I think we are opening ourselves up to a process that I don't think is necessary. We don't have a lot of fat in this budget. This budget is down to bare bones and frankly, if there are any initiatives that are constructive and positive that this administration would like to bring into the process I think that they would be received with open arms. I don't think they have to take the form of a line-item veto.

My Committee has opened the process again and again to folks from the administration. If there are areas that need work and we need to cooperate on come on down, we are more than willing to participate. Frankly my requests have had no response. I would say that a line-item veto first of all, this is not the time, we are working at a very productive, constructive process right now and I frankly, do not see, with the skinny nature of this budget, that we have any need for one. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. It's with a lot of chagrin that I just cannot understand why we, as a chamber, would not adopt this wholeheartedly and endorse this and just embrace it as far as a measure to bring our State government back into control. Let me read just a short portion of the BDN editorial. It says, "Any spending line that cannot stand alone and survive a majority vote shouldn't be in the budget. This is only common sense but it runs against the grain of conventional politics. Many lawmakers oppose line-item veto authority because it means they no longer will be able to hide pet spending proposals in large, complicated Bills." The fact of the matter is when the budget document comes up from the second floor, from the Appropriations Committee, the first thing I learned, being a member of the other body in the 113th Legislature, is don't propose amendments to that inviolate Bill, because if you do you will upset the apple cart. Men and women of the Senate, I think it's about time that we upset the apple cart. I think the amount of spending that has gone through this legislature in my tenure is reprehensible and I think if, the BDN is absolutely correct, a line-item can't survive a majority vote in this chamber it shouldn't be in the budget, bottom line. If the Governor wants to veto it, that line-item, and it's a simple move for him, the Governor has one day to submit that line-item veto back to the legislature. One day, 24 hours, I guess I find it difficult to go along with the good Senator from Cumberland, Senator Titcomb's, argument that it is going to slow down the process. 24 hours, each item must be voted on separately. If the item cannot sustain a majority vote it shouldn't be in the budget, clear and simple, that's it, that is all this Bill does. I think it is appropriate that we keep that in mind when we take the vote and I hope that you will vote against the pending motion. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator **CAHILL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. The good Senator from Cumberland, Senator Titcomb, has said that this is a bare bones budget and I agree with her, it is, and I applaud the work of the Appropriations Committee. What we are attempting to do today is amend the Constitution in November, this coming November 1993 and hopefully, this budget will be finished by November, if it isn't then I think we are all in for a lot bigger problem than we are here today. The point is that this is a Resolution to the Constitution for future legislatures and future Governors. Hopefully, at some point in time, the economy in the State will pick up and we won't be dealing with a bare bones budget and then, I think, this proposal as a Resolution to the Constitution, will be very pertinent and I hope that is soon. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Piscataquis, Senator Hall.

Senator **HALL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like to remind you of one thing, 80,000 people out there signed a petition for term limits. 80% of the people think we should reduce the size of the legislature. The voters do not have any confidence at all that this system is working. Many people forget what the people out there want, I have heard it said, we know better, we are here and we know the ins and outs and so on and so forth. Please, do not make that mistake. The system can be improved. We have made some steps of improvement this year, some small steps, we are working on it. I realize that we can't move mountains very swiftly. This is another small step in the right direction of building up the confidence and doing what is right. Think about it very seriously now, with a majority override of a veto, it should not hurt a thing but build confidence into the budget process and I disagree, I think the budget will work faster and better with a line-item veto. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator **CONLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I was glad that the Senator from Sagadahoc reminded this chamber of what we are about to do if we adopt this measure, as the good Senator from Oxford, Senator Hanley, would like us to do, is change the Constitution. The good Senator from Piscataquis, Senator Hall, has indicated that people are dissatisfied. We are the people, we represent the people, we are the first branch of government, we surrender our power when we give away the power we have here regarding a veto. Term limits, line-item vetos, reducing the size of the legislature, they all reduce the people's power. That's what it is all about, that's what the check and balances are all about. The legislature is by far, even now, the weakest branch of government. We are here for a mere 100 days a year, we are part-time citizen legislators, that's what we are. We have very little ability to check the power of the executive. Anybody here who has been around for a while would know that, very little. The budget is the only place where people come together as they sit here, the two chambers come to compromises, put it together in a budget and then send it downstairs. If we were to give the Executive, whoever that person

may be, it is giving the people's power, yet again, over to the Executive branch. That's the reason it is in the Constitution, that is why it has withstood the test of time for 160 years. We are not to be doing this cavalierly, I think it's wrong that we would do this. There is a reason why the framers of our State Constitution put this in and we should not tamper with it lightly. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Summers.

Senator **SUMMERS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. In response to my friend from Cumberland County, Senator Conley, he is right, this is the people's power right here, and let's give the people the power to decide what they want to do. Let's not sit here and permit them from being able to make a choice on an issue. Let the consumer's decide, once again the motto applies. It is the people who we represent who ought to have the ability to choose on this issue. This is a line-item veto, he mentioned the fact that we are only in Augusta for 100 days and we are part time legislators, I would submit to you that the Chief Executive of this State, whoever that person may be, is here fulltime and has his or her finger on the pulse of what goes on in the legislature. Who could be better qualified to make that decision on a pork barrel project. I find it humorous, almost, that the Majority party in this chamber, is reluctant to let an amendment go that would require a majority vote. It just doesn't seem to add up. The people have a right on this issue to decide on this line-item veto,, and I dare you to vote against it. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **TITCOMB** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**.

A vote of Yes will be in favor of **ACCEPTANCE**.

A vote of No will be opposed.

Is the Senate ready for the question?

Senator **BALDACCI** of Penobscot who would have voted **NAY** requested and received Leave of the Senate to pair his vote with Senator **CLEVELAND** of Androscoggin who would have voted **YEA**.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

**YEAS:** Senators **BERUBE, BRANNIGAN, BUSTIN, CAREY, CONLEY, ESTY, HANDY, LAWRENCE, LUTHER, MCCORMICK, O'DEA, PARADIS, PEARSON, PINGREE, TITCOMB, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE**

**NAYS:** Senators **AMERO, BEGLEY, BUTLAND, CAHILL, CARPENTER, CIANCHETTE, FOSTER, GOULD, HALL, HANLEY, HARRIMAN, KIEFFER, LUDWIG, MARDEN, SUMMERS, WEBSTER**

**ABSENT:** Senators None

**PAIRED:** Senators **BALDACCI, CLEVELAND**

Senator **BERUBE** of Androscoggin requested and received Leave of the Senate to change her vote from **NAY TO YEA**.

17 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 2 Senators having paired their votes and No Senators being absent, the motion by Senator **TITCOMB** of Cumberland, to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE, PREVAILED**.

Sent down for concurrence.

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

**PAPERS FROM THE HOUSE**

**Non-concurrent Matter**

Bill "An Act to Facilitate Municipal Road Construction"

H.P. 144 L.D. 189  
(C "A" H-299)

In Senate, May 20, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-299)**, in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-299) AS AMENDED BY HOUSE AMENDMENT "A" (H-422)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **ESTY** of Cumberland, the Senate **RECEDED** and **CONCURRED**.

**Non-concurrent Matter**

Bill "An Act to Encourage the Implementation of the Solid Waste Management Hierarchy"

H.P. 525 L.D. 709  
(C "A" H-297)

In Senate, May 20, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-297)**, in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-297) AS AMENDED BY HOUSE AMENDMENT "A" (H-420)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **ESTY** of Cumberland, the Senate **RECEDED** and **CONCURRED**.

**Non-concurrent Matter**

Bill "An Act Regarding Lobbying"  
S.P. 295 L.D. 881  
(C "A" S-183)

In Senate, May 24, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-183).**

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-183) AS AMENDED BY HOUSE AMENDMENT "A" (H-423)** thereto, in **NON-CONCURRENCE.**

On motion by Senator **ESTY** of Cumberland, the Senate **RECEDED** and **CONCURRED.**

**Non-concurrent Matter**

HOUSE REPORTS - from the Committee on **STATE & LOCAL GOVERNMENT** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Create a Unicameral Legislature

H.P. 768 L.D. 1035

Majority - **Ought Not to Pass.**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-277).**

In House, May 24, 1993, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-277).**

In Senate, May 24, 1993, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED** in **NON-CONCURRENCE.**

Comes from the House, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE.**

Senator **BERUBE** of Androscoggin moved that the Senate **ADHERE.**

Senator **CAREY** of Kennebec moved that the Senate **INSIST** and **JOIN IN A COMMITTEE OF CONFERENCE.**

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Carey.

Senator **CAREY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. This will not be a long speech but hopefully it may influence some of you to change your mind. I speak today about abolishing the very seats that we occupy and, as a matter of fact, ask for the doing away of the very able people that do our bidding here as a staff. We continually talk of reorganization and the improving of efficiency in the Executive branch, and I believe we have to look beyond the Executive branch and look at ourselves. During my campaign I asked perspective voters how they felt about reducing the size of the legislature and the large majority of those who answered my question were concerned that I was addressing reducing the size of the House. They were very concerned that what would happen to them is that they would have to share their Representative with several

other towns. Reception was more for abolishing the Senate, obviously you have heard that before. There were interesting reasons given which lead me to believe they know more about what is happening down here than we think they do.

Under the lobbying efforts, they are well aware that the lobbying efforts on the legislature does influence legislation and they are well aware that that lobbying effort is basically concentrated on the Senate because the Senate is a smaller body. As far as accountability, they are well aware of the efforts by either body to reduce the size or abolish the other body. Then some of us go home and say well I did what I had to do, I voted to cut down the size of the other body or I voted to abolish it, and we think we have really done something. Under cost savings many know that you save money by abolishing an entire body and its staff. Just reducing the size of one body or the other does not really produce the savings that there are in abolishing an entire body. As far as time savings, a single body can act faster in general than the two body system can. I was asked, for instance, about what happens with checks and balances, and I have to tell you that the checks and balances are already there, they are called the Republican and Democratic parties.

One of the things that would be nice about it is one of the Senators in this body mentioned to me the reason why that particular Senator ran for the Senate. That Senator said my Bills would get passed in the House while they were getting killed in the Senate and so that Senator ran for the Senate. Now, maybe that Senator's Bills will pass in the Senate and die in the House. One of the nice things about the single body would be the debate would be confined to a single body, you would face your friends or enemies right there. When we discussed, with the voters, the checks and balances I remember very well, having served in a House that was controlled by Democrats, the Senate was controlled by Republicans, and the second floor was controlled by an Independent Governor. I have to tell you that I have never seen as much cooperation between the two parties as I did when we had an Independent Governor. While we are considered to be the upper body, many of our members here come from the lower body, so basically we are all House members at heart, or at least most of us are. Obviously we, in the Senate, represent more people, we represent a larger area, and we have, hopefully, a broader view of the subject matter. We really are simply just a smaller House.

This measure will produce a savings of \$4.5 million over the first two years of its existence and through cost avoidance. This is not a smoke and mirrors type of affair, through cost avoidance it would produce even more savings in the long run. If we are truly interested in meaningful reform of State government we must examine all of State government, which includes the Legislature. Obviously, some here will refer to the Nebraska situation. This is not Nebraska, this is Maine. Finally, I have gotten to know each and every one of you over the last several months and I know, and the public should know, that when you cast your vote it is not in self interest, it is in the interest of what is best for the State. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator Lawrence.

Senator **LAWRENCE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like to pose a question through the Chair. If this law

passes and the term limits proposal passes it says you cannot serve more than four terms in either body. Which house does that apply to, if this unicameral legislature passes?

**THE PRESIDENT:** The Senator from York, Senator Lawrence has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Kennebec, Senator Carey.

Senator **CAREY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. While we have not addressed that particular question I have to tell you that if there is only one body obviously you could only serve four terms in that one body. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator **CAHILL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I appreciate the good speech by the good Senator from Kennebec, Senator Carey, but respectfully disagree with him and request that you vote against the motion to Insist so that we may Adhere. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Handy.

Senator **HANDY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. It is a distinct honor and pleasure to join my Chair from the Legal Affairs Committee, Senator Carey from Kennebec, in supporting this move to reduce the size of the legislature. Since spending ten years in the House I think one thing has certainly happened to me in coming to the Senate. I have heard about it but now I really have a chance to feel the impact that the lobby has on the legislative process. Instead of the usual three to five lobbyists that I had been confronted with as a House member for ten years I now find myself confronted with 25 to 30 lobbyists and that clearly indicates to me the influence that the lobby wields and they know where to wield it. When they can get simply half of 35 people plus 1 to go a certain way on a particular piece of legislation it amounts to very little work for them. It's the path of least resistance. To me that is the most compelling reason to have a unicameral legislature with 151 members, not 49 such as Nebraska, so that that influence is diffused. I think in diffusing that influence you serve the great people of the State of Maine. Thank you.

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

Senator **BALDACCI:** Thank you Mr. President, Ladies and Gentlemen of the Senate. It is so interesting to have sat on the Committee of Conference two years ago that dealt with this particular issue. At that particular time there was a great need to reduce the size of the other body and that issue, having been passed in this body, and not in the other body, a Committee of Conference was created. Now we have an outgrowth of that. All of a sudden we have a new spin on things, now we've got this unicameral legislature that is going to be saving money, reducing the size of maintaining the House and I think you have done a terrific job of putting a spin on this that gives it more than what it really is. The fact of the matter is that 151 in the House is too many in the House and the proposal to reduce the size of the House is a proposal to reduce the size of the House. I am just applauding the efforts of the people supporting this

because they have been able to turn the debate around from reducing the size of the House to abolishing the Senate, which I think is an admirable quality. I am impressed having sat on that Committee of Conference and having worked with those people that are now pushing this suggestion. I appreciate that but I think it gets us away from the main issue which is the fact of the matter that it is not the Senate that is inefficient. It is not the Senate that lacks direction, it is not the Senate that is the problem and the Senate will not be put on the defensive on this particular issue. I admire the efforts and industry of the people involved in this particular matter and I appreciate those efforts. I congratulate you on taking it to this level, you have never taken it so far. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Oxford, Senator Luther.

Senator **LUTHER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I am somewhat humiliated from having been lost on that trampoline that we just did on the debate but I don't play games in my personal life and I don't like to play them here and I certainly don't play them well. Now I know how a moose feels when he gets lost on the streets of downtown Portland. I like this Bill. I did this Bill last year and I think I may be on the Bill this year but we have so many cosponsors now that I don't really know. The reason I went on the Bill last year was because I don't like the lobbyists. I think this is lobbys heaven. You only have to change three votes here on any real important Bill and you have killed that Bill, that is really where the lobbyists strength is, not in passing Bills but in killing Bills. It wouldn't work with 151 people, there would be just too many of them. It works down here and that is why I support this Bill and I think it is a good Bill. I don't think it is a joke, I think the people's business gets killed down here a lot. Thank you.

Senator **BERUBE** of Androscoggin requested a Division.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator **BERUBE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'd like to remind you that Nebraska, as we have heard, is the only State in the Union that has a unicameral. If it was that good a system Congress would not be bicameral, we would not be fortunate in having good representatives in both chambers in Washington, there would be 49 other States that would also have a unicameral. Nebraska, with 49 Senators as they are called, is a very costly system. There cost of the legislative budget has quadrupled, they have more staff then they used to have, so you can imagine how costly it would be with 151 unicameral if it is that costly for Nebraska with a 49 unicameral. We would have to have a redistricting, I believe, because the parent proposal before you would base the unicameral body on the redistricting lines that we have just gone through and you know how easy that was. So you could figure another \$150,000 plus to do so again in a year or two. I heard the mention of lobby and frankly I take umbrage with the blanket accusation that the lobby can come in and by swaying two or three people can turn things around in this body. I guess I feel neglected or shun because nobody ever approaches me, they say did you consider that or did you consider this and I have never been approached in a strongarm way by lobbies, so I can't respond to



that, but I have never seen any bad actions on the part of the lobbies to influence me. I suspect that if I were a lobbyist I would not go for the Senator or the Representative but I might try to get an audience with the leaders or the President or the Speaker and I know they don't do that either. I hope we don't hear anymore about lobbies because I don't think that paints a good picture of the Senate. I still believe, that as we heard from the Senator from Cumberland on another issue, that the people believe in us because they like to have the system of checks and balances and I think we should keep it that way. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Carey.

Senator **CAREY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'd like to point out that I misunderstood the good Senator from York, Senator Lawrence, I thought that his question might be a little facetious, it certainly was not. He was very serious about asking where do you go if the Senate is abolished. Where do you go from the House if you are limited to the four terms. I obviously said well there would be no further body here, you would have to run for the House. What he was wondering about is what do we call this thing and can both Senators and House members who have served their four terms, if that becomes the law, can they serve in this single body. Obviously they could. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Lincoln, Senator Begley.

Senator **BEGLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Being a freshman legislator of any body I carry no baggage with me. When I stressed my point of view as a citizen looking at the two houses and now serving in one, that the district that I represent would be much better represented with two bodies than with one. The area that I come from has many coastal towns and you move inland ten or fifteen miles and we start picking up many rural towns. I have worked, I hope somewhat successfully, with the two or three Representative in the House and yet I disagree with them and they with me at times and yet I represent a larger group, and therefore that group can work through me, hopefully, on a broader scale. They still have the right to work through their Representatives. Having only a unicameral, that point of view would cease to exist. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Somerset, Senator Cianchette.

Senator **CIANCHETTE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. If there is a Committee of Conference I would only hope that they would put forth the position of a single body with 99 members. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion of Senator **CAREY** of Kennebec, to **INSIST** and **JOIN IN A COMMITTEE OF CONFERENCE**.

A Division has been requested.

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

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

5 Senators having voted in the affirmative and 26 Senators having voted in the negative, the motion of Senator **CAREY** of Kennebec, to **INSIST** and **JOIN IN A COMMITTEE OF CONFERENCE**, **FAILED**.

On motion by Senator **BERUBE** of Androscoggin, the Senate **ADHERED**.

The Secretary has so informed the Speaker of the House.

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

## COMMITTEE REPORTS

### Senate

#### Ought to Pass As Amended

Senator **LUDWIG** for the Committee on **ENERGY & NATURAL RESOURCES** on Resolve, Authorizing the Conveyance of Certain Public Lands in Newcastle (Governor's Bill)

S.P. 502 L.D. 1525

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-210)**.

Which Report was **READ** and **ACCEPTED**.

The Resolve **READ ONCE**.

Committee Amendment "A" (S-210) **READ** and **ADOPTED**.

The Resolve as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

Senator **GOULD** for the Committee on **TRANSPORTATION** on Bill "An Act to Authorize Department of Transportation Bond Issues in the Amount of \$39,500,000 to Match Available Federal Funds for Improvements to Highways, State and Local Bridges, Airports, Cargo Ports and the Ferry Service" (Governor's Bill)

S.P. 505 L.D. 1529

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-212)**.

Which Report was **READ** and **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-212) **READ** and **ADOPTED**.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

**Divided Report**

The Majority of the Committee on **ENERGY & NATURAL RESOURCES** on Bill "An Act to Allow the Use of Polystyrene Cups in Schools"

S.P. 353 L.D. 1067

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-211).**

Signed:

Senators:

LAWRENCE of York  
CIANCHETTE of Somerset  
LUDWIG of Aroostook

Representatives:

CONSTANTINE of Bar Harbor  
ANDERSON of Woodland  
JACQUES of Waterville  
LORD of Waterboro  
GOULD of Greenville  
POULIN of Oakland  
MITCHELL of Freeport  
COLES of Harpswell  
MARSH of West Gardiner

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass.**

Signed:

Representative:

WENTWORTH of Arundel

Which Reports were **READ.**

The Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED.**

The Bill **READ ONCE.**

Committee Amendment "A" (S-211) **READ** and **ADOPTED.**

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING.**

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

**COMMITTEE REPORTS**

**Senate**

**Ought to Pass**

Senator **PEARSON** for the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** on Bill "An Act to Make Additional Appropriations and Allocations and to Make Technical Corrections to the Laws for the Fiscal Years Ending June 30, 1993 and June 30, 1994" (Governor's Bill) (Emergency)

S.P. 497 L.D. 1517

Reported that the same **Ought to Pass.**

Which Report was **READ** and **ACCEPTED.**

The Bill **READ ONCE.**

The Bill **TOMORROW ASSIGNED FOR SECOND READING.**

**ORDERS OF THE DAY**

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act Regarding Certain Property of the Department of Mental Health and Mental Retardation" H.P. 250 L.D. 329 (C "A" H-389)

Tabled - May 25, 1993, by Senator **ESTY** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED,** in concurrence

(In Senate, May 25, 1993, **READ A SECOND TIME.**)

(In House, May 24, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-348).**)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending **PASSAGE TO BE ENGROSSED AS AMENDED,** in concurrence.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

HOUSE REPORT - from the Committee on **UTILITIES** on Bill "An Act Amending the Charter of the Brewer Water District" (Emergency)

H.P. 615 L.D. 830

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-250).**

Tabled - May 25, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Report, in concurrence

(In Senate, May 17, 1993, Report **READ** and **ACCEPTED,** in concurrence. Subsequently, **RECONSIDERED.**)

(In House, May 13, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-250) AND HOUSE AMENDMENT "A" (H-278).**)

Which Report was **ACCEPTED.**

The Bill **READ ONCE.**

Committee Amendment "A" (H-250) **READ** and **ADOPTED,** in concurrence.

House Amendment "A" (H-278) **READ**.

On motion by Senator **VOSE** of Washington, House Amendment "A" (H-278) **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

Which was, under suspension of the Rules, **READ A SECOND TIME**.

On motion by Senator **VOSE** of Washington, Senate Amendment "A" (S-177) **READ** and **ADOPTED**.

Which was **PASSED TO BE ENGROSSED, As Amended** in **NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act Regarding the Department of Environmental Protection Rulemaking"

H.P. 861 L.D. 1170  
(C "A" H-317)

Tabled - May 25, 1993, by Senator **ESTY** of Cumberland.

Pending - **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence

(In Senate, May 21, 1993, **READ A SECOND TIME**.)

(In House, May 19, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-317)**.)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act Related to the Adoption of Municipal Ordinances and Comprehensive Plans and to Revise Notice Requirements for Certain Zoning Changes"

H.P. 864 L.D. 1173

Tabled - May 25, 1993, by Senator **ESTY** of Cumberland.

Pending - **ADOPTION** of Committee Amendment "A" (H-343), in concurrence.

(In Senate, May 21, 1993, Committee Amendment "A" (H-343) **READ**.)

(In House, May 20, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-343)**.)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending **ADOPTION** of Committee Amendment "A" (H-343), in concurrence.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

**HOUSE REPORTS** - from the Committee on **HUMAN RESOURCES** on Bill "An Act to Protect Maine Citizens From the Effects of Environmental Tobacco Smoke"

H.P. 666 L.D. 904

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-358)**.

Minority - **Ought Not to Pass**

Tabled - May 25, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

(In Senate, May 24, 1993, Reports **READ**.)

(In House, May 24, 1993, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-358)**.)

Senator **PARADIS** of Aroostook moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Paradis.

Senator **PARADIS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I do have a treat for you, this is the Bill whose time has come. For a dozen years now this issue has been before this body as a very important public policy concern. I doubt the legislators, back then, thought it would take so long to start protecting our men, women, and children from secondhand smoke. That time has finally arrived. I have enjoyed my stay on the Human Resources Committee, an assignment that most people covet, and I share that feeling too, but I accepted the assignment because I am not one to turn down a challenge. It's been the most difficult job I have ever done, that includes picking potatoes. This session has been very grueling because of the problems the State is facing. I miss my family, having a life, and all that goes with it but I wouldn't give up these last five months for anything because I feel that I have a better grasp of what is going on in this State and possibly have found ways to turn things around by making positive policy changes that now will have long term impact on the people of this State. Our Committee took our role very seriously and this Bill falls under the category of a very important policy statement that we would like to make. We heard incredible testimony and usually the Committee stayed for all of it. There were dozens of documents that detailed everything about this issue. The impact of secondhand smoke on people's bodies.

Health care concerns are very important to us because it is a big ticket item for the taxpayers of this State. At a National Governor's Conference on

Primary Care in Vermont a few weeks ago, prevention was the thing that was stressed the most. States are to do everything in their powers to get the word out, less food, less alcohol, safer lifestyles or habits, like buckling up. We, in Maine, have the highest rate of lung cancer, and for many reasons. That is taking its toll. We all know people close to us that have succumbed to this problem. We know what exposure to second hand smoke can do to the unwilling recipients of the largess. The testimony, as I said, was overwhelming. We are making a statement here that we care about people and that this stuff is deadly. No amount of air exchanger or recycled smoke will do what can simply be done by being able to avoid.

Undiagnosed allergies caused me to have a very miserable childhood. I was sick all of the time and I had to use up precious family resources because it meant travelling to different hospitals. I remember a stay at Bangor, which in those days was an incredibly far place to go, for care. Dad had to take 9 days out of work without pay and without insurance coverage, we paid those bills for years. I remember every month getting that little envelope. At 13, surprise surprise, allergies, smoke among other things. What was the very expensive prescription? Avoidance. You avoid these allergens and you are going to be healthy. It did turn my life around at that point but no child, no one, should have to go through something like this. We know how many children in this State are very badly damaged by having to be exposed to this smoke. The solution here is not expensive but it works, Maine children and elderly, vulnerable adults, are not here today. As a young child, I could not do very much to help myself, adults had to be the protector. They had to be the defenders. We are the adults today and we know what is appropriate and right. What powers we have to improve the quality of life, to preserve precious resources. This is a simple comprehensive policy instead of a piecemeal effort of the past. It is very consistent with the positive policy shifts we are trying to make in our Committee. It's very hard to change and to grow, but we can do no less. 75% of the people in this State who don't smoke deserve nothing less. I urge your support on the Ought to Pass on this. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Handy.

Senator **HANDY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I am pleased to support the Ought to Pass as Amended Report from the Human Resources Committee. I am a parent of a child who has severe asthma. I know what it is like to be awakened in the middle of the night with a child with a cough that you just can't stop no matter how tightly you hold him or hard you try to comfort him. Let me say at the outset that this Bill is not about being against the smoker, but being against the smoke. Smoke and other environmental factors enter into the suffering of my children and literally hundreds of thousands of other children who suffer from respiratory illnesses in our neighborhoods, in our State and in our Country.

My son, Carter, who was born on August 7, 1989, had his first respiratory attack when he was five months old and was diagnosed with croup. Many of us hear the term croup and we think it is nothing but a cough and a wheeze and it is something that the child will overcome. Let me just read from Dr. Spock's Baby and Childcare book, by Dr. Benjamin Spock and Michael P. Rothenberg, about croup. It says, "A

child who has hoarseness with fever or tightness of breathing with fever must be put under the close continuous supervision of a doctor without delay." Needless to say that is what my wife and I did. My son was hospitalized at five months for three days. In October of 1990, a few short months later, he again was hospitalized as a result of his respiratory illness, again for three days. In January of 1991, at 17 months, again hospitalized for three days. In March of 1992, at age 2 1/2 years, again hospitalized for three days. One very short month ago, at age 3 1/2, hospitalized five days, intensive care for 1 day near death, because of his respiratory illness. Let me state categorically, I do not mean to imply that smoking was the result of his hospitalization, but smoking and the ETS, Environmental Tobacco Smoke, enters into this whole equation because lifestyle has to change given the lifestyles of other people that are imposed on you. It's very difficult to walk through the Auburn Mall from one end to the other without encountering not just a smoker walking by, even though there are designated areas in the place, and they do make an attempt to enforce that, but I can't go from one end of that mall with my son, nor would I with any other member of my family given our experience with our son, because one end of that mall is a designated smoking area where general members of the public are expected to go.

I can try to relate to you the pressures that are put upon an entire family, not just the parents because Carter's sister certainly feels the pressure when her brother is taken ill. She has to contend with that and we have to contend with her feelings about that as well. In an attempt to try to qualify this in some concrete terms, aside from the rushes to the Emergency Room, and I haven't even accounted for those, or the rushes to the doctor's office when he is in crisis, to deal with an asthma attack, let me talk a little bit about the cost associated with this from a very personal standpoint. My son starts his day when he wakes up by going on a breathing machine, it's called a Pulmo-Aide. In that Pulmo-Aide there is an apparatus that is filled with several medications. One is called Ventolin, a very common asthma medication, and that is put in that thing called a nebulizer and it is vaporized, along with another drug called Chromolyn Sodium. Chromolyn Sodium is a very expensive drug, and that goes along with it. The drugs that he is required to inhale at the beginning of his day and in the middle of his day and at the end of his day, the Sodium Chromolyn is \$120 for a 40 day supply, the Ventolin is \$18 for a little bottle that lasts about 6 weeks, and these nebulizer packets sell for \$10 each and they are good for about 10 days, maybe 12 days. In addition to those drugs which he is required to inhale he must also take orally a drug called Slo-Phyllin, it's rather strong Theophylline and Theophylline has one of the most narrow of safety margins of any drug that is prescribed for any person, according to our pediatrician. He must take that 3 times a day. When he is in crisis or he develops a cough he has to be put on Ventolin Syrup and that's kind of like a cough syrup, it's kind of like to get to the root of the problem as quickly as possible and try to fend off getting to severe crisis. When he does get into severe crisis, this is probably the step before he ends up having to go to the hospital, we put him on Prednisone. Prednisone is a steroid and there are a number of potential side effects to the uses of a steroid. We'd like to say no, we don't want to have to contend with those potential side effects down the road, like certain problems with heart and muscles later in life, but given the limited nature of the kinds of drugs that are available we must put him on

that and kind of weigh the risks and benefits. There really is nothing else that we can do. His oral medications, for 200 pills of the Theophylline is \$40 for a 60 day supply. The Ventolin, which he takes on an as needed basis, is \$25 for 16 ounces and the Prednisone steroid is \$45 for 8 ounces which lasts for about 6 to 8 weeks. Those are the things we need to keep him out of the hospital.

To give you a sense of his hospitalization. I'll start backward. His last hospitalization, including the doctor's fee of \$500, being hospitalized for 5 days, amounted to \$7000. His other four hospitalizations amounted to roughly \$3500, with doctor's fees. One might say, well Jim you have Blue Cross Blue Shield, that's a pretty good plan, you're covered. In fact we don't. My wife and I cannot afford for her to hold her job and myself to be here and afford the premium, so we opt for my wife's plan which is not too bad a plan at my wife's employment, although they are self insured so their employees bear the burden of paying the cost of insurance. When you get to these kinds of dollar figures you can bet that it has an impact on a self insured company. Most of that is covered. Medications are 75% covered once we meet the deductible, after that the coverage comes from the insurance at 100%. There are other costs associated with these kinds of problems that insurance won't pick up and few people want, or really have the ability to acknowledge. We have the electricity that we expend for the machine that drives the air through the nebulizer. We can't write off for that. We have to pay our child care provider, and we are fortunate to have one that is willing, because there are many child care providers who are not willing to have children who require ongoing medications. We have to pay an extra \$10 to have our childcare provider administer the breathing treatment to our son one day a week for five days that he is at the childcare. Furthermore when he is out and at home because he is in crisis, or if he is hospitalized, we still have to pay the \$65 a week for childcare services, whether he is there or not, otherwise we would lose the space in our childcare. There are other ancillary things that come into play here, like missed work on the part of myself or my wife in order to be sure that my son's medical needs are attended to.

What this all amounts to is that we may not be able to prevent these kinds of attacks totally, but we certainly can take steps to mitigate them at significantly lower cost to the insurers and to the parents and families of these children. Not only in monetary terms but in emotional terms. This is probably the most cost effective way of approaching environmental conditions in which we live. I cannot urge you more strongly to support this, not for my son, because my son will probably have asthma for the rest of his life whether there is smoking or not. It's unlikely that he will grow out of it given its severity, but we can mitigate the severity of his attacks and perhaps even eliminate the attacks for some people. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Lincoln, Senator Begley.

Senator **BEGLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. One must sympathize with any story concerning family conditions, and certainly that would be my position here. However, I will tell you that I will vote against this piece of legislation on the grounds that, if you read the amendment, there are any number of exceptions. When one gets talking on a situation

such as this and starts saying these people are accepted and those people are accepted and you do not have to worry about it here, that flies in the face of reason for those people are just as important as anyone else. If this Bill had said, across the board, that we would restrict this type of activity, I would certainly vote for it. However, when they add that many amendments to it and that many exceptions, I find that that is not good legislature. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Harriman.

Senator **HARRIMAN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I rise today with great empathy and, indeed, understanding for the good Senator from Androscoggin, Senator Handy. I want to say at the onset that I am a non-smoker. I also want to say that in my thirty something years of life I take some pride in trying to keep myself physically fit and am, indeed, irritated with tobacco smoke myself. I'm the father of three young children, one of whom, as we speak, is sharing, although not as drastic, similar situations as the good Senator from Androscoggin, Senator Handy. I'm also a small business owner, I do not permit smoking in my business. One might ask why would you rise to speak in opposition to this Bill. I do so for a couple of reasons. First, if you read the Bill, one of the provisions in there has to do with taverns or lounges, which would create a whole new definition for the purpose of banning smoking in some lounges. Creating an uneven playing field. Some would permit, for example Alfred's Restaurant right here locally, others would prohibit, like the Senator or Margarita's. It bans smoking completely in private businesses with no accommodations for designated smoking areas. This, despite the fact, that many businesses have already invested large sums of money to remodel and install ventilation systems. It approaches private businesses, like mine where I choose not to have smoking allowed, such as barber shops, corner stores, professional offices, shopping malls, and the like. Shouldn't they be able to make their own decisions based on their own professional judgements. They are private businesses, not public facilities. Businesses ought to be able to judge the needs of their clients. In fact, when this Bill was before our Committee I was very surprised to hear the conversation talking of why don't we do what they did in Vermont, because in Vermont they just eliminated smoking, that would be fair to everybody. The comment in Committee was that's not going to fly politically, that won't get past the House let alone the Senate. We can't approach it on that basis. It is exempting businesses where it would be popular but yet if you look at it there are exceptions. Hospitals, of all places, for Beano halls to name a second.

I was very encouraged and surprised to hear a number of restaurants, indeed other facilities are choosing to go smoke free. One of my favorites in my district in Brunswick is the Great Impasta, and they have just announced that they are totally smoke free. How many of you have heard of Moody's Diner? It's probably one of the most unique tourist attractions in the State, they announced today that they are going to a smoke free environment. The issue here isn't whether we agree that we should have a smoke free environment. I think the issue to me is shouldn't we allow the people who run private businesses to decide for themselves what their clientele wants. Indeed if we are going to eradicate this problem it should be eliminated all together.

Anything less than that is just going to create economic warfare between those who can afford to comply with certain provisions of the law and those who can't. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator **BUSTIN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I just wanted to answer the good Senator from Cumberland, Senator Harriman, about letting small businesses decide for themselves and just relate a story. I went to lunch this noontime and I will refrain from naming the restaurant, but I was asked by the owner how I was going to vote on these Bills and I said I was going to be voting for them. He reached out and grabbed my hand and said thank you for doing the job for me because I don't have the courage. Thank you.

On motion by Senator **BUSTIN** of Kennebec, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **PEARSON:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I am in favor of this Bill because I am chained to an inhaler every day of my life and I cannot tolerate for very long being in an area where there is smoke. There are an awful lot of people who don't care about whether or not that bothers anybody else or not. We are restricted to places that other people cannot go to. It's just very confining and I don't think it is very necessary. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator **CONLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I rise only since nobody from my party has risen to join Senator Harriman from Cumberland. I feel it is important to state my reasons on the Record why I will be joining him. Actually now that a Roll Call has been ordered I'm going to have to pair. I want to start off by saying a number of things. First, I was on the Human Resources Committee two years ago when we dealt with this issue and death with actually this exact same Bill almost. I did not support it then. Then, like now, I appreciate the hard work of Dr. Lannie Graham, who is actually in the chamber here, and whose father served in this body with great honor, she has done him tremendous service down there in the Department of Human Services on all health issues. I also want to commend the Senate Chair, I know how hard she has worked this year and she has a number of Divided Reports coming up after this. Nobody has worked harder in this legislature than she has, the good Senator Paradis from Aroostook. Senator Handy from Androscoggin and the good Senator from Penobscot, Senator Pearson, gave strong personal reasons why we ought to be further limiting people's ability to light them up if they have them. I must say, although I do not smoke, I do have a bias in this area. I tend to like to be around places where people are smoking and drinking. I know that that is my personal and my own problem and preference. I have to say that my district probably has as many restaurants or lounges or places that could be considered lounges in it as any three or four Senate districts represented by individuals in this body. I hear from them and I listen to them carefully, though I believe I am very liberal on most social issues, on

this particular issue I depart from many of my friends in this chamber. The reason I do is in looking at the Bill, I talked with the good Senator from Aroostook about this earlier, and it was raised by the good Senator from Cumberland, Senator Harriman, tavern, as it is defined, leaves a lot to be desired. The way that it is defined, and I have actually called the individual downstairs in the drafting office to make sure my understanding is correct, and it is, any establishment that 51% of its take is made up of food, if you sell that much food, you will be covered by this law. What that would cover is a place a few blocks from Senator Harriman's office, a brew pub which is a small business. It would, like many of the restaurants that are actually lounges in the Old Port area in Portland would have to go to extraordinary expense to comply with the provisions of this proposal. That's one reason why I'm against it. Another reason why I am against it, is in reading the Bill, although we do ban smoking in the office I work in, as I read this Bill, a person of one, one person could have an office and if someone came in and did not consent to that person smoking that person would be prohibited from smoking in his or her own office. I think that's going a little bit too far for government to regulate that particular situation.

Finally, in looking at the Bill, I must say that is does matter, there is a difference between drinking and gambling, as we all know. I see an exception has been made for Beano halls in the Bill, under Section K. Whoever represents them deserves a large degree of credit for being able to exempt Beano halls from this Bill. I don't think it is very fair to exempt them and to leave lounges in. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. As my good friend from Cumberland, Senator Conley, vacates the liberal position I guess I will fill in for him on this one. I, too, share with the good Senator from Penobscot an inhaler that I have to use before I engage in athletic activities. While I don't have to use it all of the time, before I go running I do have to use the inhaler. The reason why is because my mother has been smoking ever since she was 16. Every morning at breakfast she would have a few cigarettes while I ate my Cheerios and bananas. What the situation has evolved to now is my mother has been on oxygen 24 hours a day for the last 10 years. The doctor said she probably would not see my younger brother graduate from High School. She is still on, but 24 hours a day she carries an oxygen machine beside her. When she goes out, when she goes to a restaurant, the thing is we have to call ahead to make sure there is no smoking at all in the restaurant. Maybe it is hypocritical of me to use this argument, seeing as I voted against the seatbelts, but for those who voted in favor of the seatbelts as far as from a dollarwise standpoint, the cost to the State and the cost to society, this has proven to be even more costly as far as cigarette smoking and the effects of secondhand cigarette smoke on those individuals. The argument does have some merit.

I think if this chamber is willing to pass this Bill through I would be willing to offer an amendment which would cover the concerns raised by the good Senator from Cumberland, Senator Harriman, as far as either adopting a Bill which has no exemptions or going along with a Bill similar to Vermont's. Those

options are available to us. I think we, as a chamber, are faced with a very positive effort of which we can partake this evening and I think that effort is to go along with the Majority Ought to Pass Report. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Paradis.

Senator **PARADIS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Senator Begley is absolutely right in the terms that we lack the moral fortitude to make it as wide ranging a Bill as we would have liked to. As you notice, there is a consistent pattern that we at least protected the children. Knowing the political reality and I would be more than happy to vote for any amendment that would do the complete ban. We left in private office options, again trying to protect people. We felt we needed to define tavern because if someone wants to redefine that in terms of taverns that are presently wishing to masquerade as restaurants that is another matter. I urge your positive support on this legislation. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **PARADIS** of Aroostook to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

A vote of Yes will be in favor of **ACCEPTANCE**.

A vote of No will be opposed.

Is the Senate ready for the question?

The **CHAIR** who would have voted **NAY** requested and received Leave of the Senate to pair his vote with Senator **PINGREE** of Knox who would have voted **YEA**.

Senator **CONLEY** of Cumberland who would have voted **NAY** requested and received Leave of the Senate to pair his vote with Senator **MCCORMICK** of Kennebec who would have voted **YEA**.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

**YEAS:** Senators **AMERO, BERUBE, BRANNIGAN, BUSTIN, BUTLAND, CIANCHETTE, ESTY, FOSTER, HANDY, HANLEY, LAWRENCE, LUTHER, O'DEA, PARADIS, PEARSON, TITCOMB, VOSE**

**NAYS:** Senators **BALDACCI, BEGLEY, CAHILL, CAREY, CARPENTER, GOULD, HALL, HARRIMAN, KIEFFER, LUDWIG, MARDEN, SUMMERS, WEBSTER**

**ABSENT:** Senator **CLEVELAND**

**PAIRED:** Senators **CONLEY, MCCORMICK, PINGREE, THE PRESIDENT - DENNIS L. DUTREMBLE**

17 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 4 Senators having paired their votes and 1 Senator being absent, the motion by Senator **PARADIS** of Aroostook, to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-358) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

**HOUSE REPORTS** - from the Committee on **STATE & LOCAL GOVERNMENT** on Bill "An Act Imposing Term Limits on Legislative Leadership Positions" H.P. 546 L.D. 742

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-364)**

Minority - **Ought Not to Pass**

Tabled - May 25, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

(In Senate, May 24, 1993, Reports **READ**.)

(In House, May 24, 1993, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-364)**.)

Senator **BERUBE** of Androscoggin moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On motion by Senator **ESTY** of Cumberland, Tabled Unassigned, pending the motion by Senator **BERUBE** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

**HOUSE REPORTS** - from the Committee on **HUMAN RESOURCES** on Bill "An Act to Prohibit Smoking in Restaurants" H.P. 496 L.D. 654

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-357)**

Minority - **Ought Not to Pass**

Tabled - May 25, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

(In Senate, May 25, 1993, Reports **READ**.)

(In House, May 24, 1993, Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

Senator **PARADIS** of Aroostook moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE**.

Senator **BALDACCI** of Penobscot requested a Division.

Senator **SUMMERS** of Cumberland moved the **INDEFINITE POSTPONEMENT** of Bill and Accompanying Papers.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Summers.

Senator **SUMMERS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. This is an instance, once again, where the government should not be in the business of dictating to our private businesses how to conduct their affairs and the case in point, several restaurants in the Portland area who have gone completely to no smoking on their own. It is not necessary to regulate these businesses because they are doing it on their own and they are doing an effective job. Thank you.

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

Senator **PEARSON:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I do believe that the State has a business in regulating health for people of the State. We have already done that. We have said in restaurants that you have to have a place for people who smoke and for people who don't smoke. I, as an asthmatic, at the present time am satisfied that there has been a sufficient division made in restaurants but to say that we don't have any business in regulating it I think is totally wrong. We have regulated it and I go to restaurants where there is a room for one and one for the other and I am satisfied with that. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Paradis.

Senator **PARADIS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I was very pleased with the response of the industry to this Bill. They came and really testified about why we should completely ban smoking in restaurants. I have a document that was sent to the Maine Restaurant Association by an individual and he listed three or four points that I would like to mention to you. The health issue of secondhand smoke for other customers, wait staff, and other personnel. The restaurant industry is learning more and more about this proven medical fact. It is reported in many industry trade publications and weekly newspapers. Possible owner liability for medical problems associated with secondhand smoke, higher insurance premiums, etc.. The possible productivity loss from the employees that take too many breaks and in pressure situations some people concentrate on their next cigarette instead of the job at hand, costing the employer money and time. If the product delivered to the customer is not appealing or cooked to his or her satisfaction, sanitation problems especially, if you take ammonia or other cleaner you can really see the before and after results. The cleanliness of walls, window treatments, curtains and the smell of cigarette smoke that permeates the clothing, skin, hair, and breath and the possible contamination of food by employees that have to handle, empty, and clean ashtrays, are just a few problems that can

exist in a smoking area restaurant. The most important issue came up today on the front page of the KJ, and Senator Harriman referred to it, the Moody's Diner that finally hit with the death of a long time relative who was an employee for 30 years and the autopsy showed that non-smoker that she was her lungs were black. So there are very strong possible ramifications for restaurant owners and many of them said get it out of our faces. It is really a hard decision for them to make and we can easily make it here for them. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator Carpenter.

Senator **CARPENTER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'm a little reluctant to stand and speak on a smoking Bill. I really would like to go out and have a cigarette but one thing the good Senator Pearson from Penobscot did say that wasn't, I don't believe, exactly correct. He said that every restaurant, by law now, must have a smoking and a non-smoking section in the restaurant. I don't believe that is exactly true. I think any restaurant that wishes in Maine can be completely non-smoking and I would say that if they do not want smoke in the restaurant they have a perfect right to make it a non-smoking restaurant. A lot of them are doing this, there are some in Sanford, actually they are increasing their business. There are quite a few in Augusta now and I certainly don't have any problem with that as a smoker. If I like the restaurant I can have a decent meal and last through the meal, and if I can't or somebody else can't we can run outdoors. It makes it a little awkward but I don't think they should object. I do think that it is an intrusion on the owner of a business, a restaurant, to say it must be non-smoking. They would like to have you do it for them but I've had many discussions with restaurants that I go into in my district and I told them I would not help them but I will buy the sign if they want to make it a non-smoking restaurant. I think the right to make it a non-smoking restaurant should remain with the owner or proprietor. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Summers.

Senator **SUMMERS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I wanted to thank the Senator from Aroostook, Senator Paradis, for making my point for me. Moody's Diner came to the conclusion to ban smoking on their own. It did not take the government to do it. We don't need this law. Please support my motion. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Lincoln, Senator Begley.

Senator **BEGLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I thoroughly appreciate all of the publicity for Lincoln County, Route 1, Moody's Diner. They certainly have taken the step that I would agree with on their behalf and they stood up, like good Maine born and bred people, and said we will handle it ourselves. Again, I am not sanctimonious, again I would say that if this Bill were covering everything I would vote for it. It does not. The Maine Restaurant Association says it is discriminatory against some and therefore not good business. Once again, I thank you for all the advertising and I'm certain they appreciate it as well. Thank you.



**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **SUMMERS** of Cumberland, TO **INDEFINITELY POSTPONE** Bill and Accompanying Papers.

The Chair ordered a Division.

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

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

21 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **SUMMERS** of Cumberland, to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers, **PREVAILED**.

(See Action Later Today)

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on **STATE & LOCAL GOVERNMENT** on Bill "An Act to Require that the Clerk-of-the-works on State Construction Projects be Employed by the Owner, not the Architect"

H.P. 219 L.D. 287

Majority - **Ought Not to Pass**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-382)**

Tabled - May 25, 1993, by Senator **WEBSTER** of Franklin.

Pending - **ACCEPTANCE** of Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**

(In Senate, May 25, 1993, Reports **READ**.)

(In House, May 24, 1993, Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-382)**.)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending **ACCEPTANCE** of Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on **UTILITIES** on Bill "An Act to Ensure Economic Benefits from Purchases by Generators of Nuclear Power"

H.P. 289 L.D. 376

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-347)**

Minority - **Ought Not to Pass**

Tabled - May 25, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

(In Senate, May 25, 1993, Reports **READ**.)

(In House, May 24, 1993, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-347)**.)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending **ACCEPTANCE** of Either Report.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act to Amend Maine's Unclaimed Property Act"

S.P. 185 L.D. 621  
(C "A" S-132)

Tabled - May 25, 1993 by Senator **ESTY** of Cumberland.

Pending - **FURTHER CONSIDERATION**

(In Senate, May 17, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-132)**.)

(In House, May 24, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-132) AS AMENDED BY HOUSE AMENDMENT "A" (H-405)** thereto in **NON-CONCURRENCE**.)

On motion by Senator **ESTY** of Cumberland, the Senate **RECEDED** and **CONCURRED**.

Senator **CAHILL** of Sagadahoc, moved that the Senate **RECONSIDER** its action whereby it **INDEFINITELY POSTPONED** Bill and Accompanying Papers on:

Bill "An Act to Prohibit Smoking in Restaurants"  
H.P. 496 L.D. 654

(In Senate, May 25, 1993, Reports **READ**. Bill and Accompanying Papers **INDEFINITELY POSTPONED**.)

(In House, May 24, 1993, Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

Senator **HANDY** of Androscoggin requested a Division.

**THE PRESIDENT:** The pending question before the Senate is the motion of Senator **CAHILL** of Sagadahoc, to **RECONSIDER INDEFINITE POSTPONEMENT** of Bill and Accompanying Papers.

A Division has been requested.

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

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

10 Senators having voted in the affirmative and 22 Senators having voted in the negative, the motion of Senator **CAHILL** of Sagadahoc, to **RECONSIDER INDEFINITE POSTPONEMENT** of Bill and Accompanying Papers, **FAILED**.

Senator **CONLEY** of Cumberland was granted unanimous consent to address the Senate off the Record.

**ORDERS OF THE DAY**

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

SENATE REPORTS - from the Committee on **LABOR** on Bill "An Act to Establish a Full Employment Program as a Pilot Project in Certain Counties of the State" S.P. 212 L.D. 683

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-204)**

Minority - **Ought Not to Pass**

Tabled - May 25, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

(In Senate, May 25, 1993, Reports **READ**.)

Senator **HANDY** of Androscoggin moved that the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report.

**THE PRESIDENT:** The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would ask you to vote against the motion of the Ought Not to Pass Report and ask you to take a look at Supplement 7 and take a look at the Report of the Committee for the Majority Ought to Pass Report. It is a bipartisan majority, the vote was 9 - 4 out of the Labor Committee. This piece of legislation that I introduced is based on a program that has been in use in the State of Oregon which has been very successful. Just bear with me for a minute while I walk you through the program and basically why the State of Oregon initiated it and why it would be a good idea for the State of Maine to follow suit. In the 1930's, at the time of the great depression, Federal public assistance first was generated to alleviate the hardship on those who were caught in the great depression. In 1981, nationally there were 3.8 million families who drew AFDC. In 1991 there were 11.9 million individuals on AFDC. Today 1 in 5

people are on welfare. In hard economic times there is low voter tolerance for proponents of obligation free government handouts to those able to work. It's been proven that welfare discourages work and self reliance and that it in fact seduces people into a life of dependency. If I could read a quote from Mickey Kaus, who wrote a national welfare policy review, he stated, "Welfare doesn't work. Work incentives don't work. Training doesn't work. Work requirements don't work. Work experience doesn't work. Even workfare doesn't quite work. Only work works." What this Bill would do, it would take AFDC payments, it would take unemployment benefits, and it would take food stamps and it would pool this money and it would allow both public and private employees to draw from this pool individuals who would voluntarily decide to work for that employer. It would be based on the amount of unemployment insurance they have paid into the system. This legislation is a pilot program, in fact it's only resolved to study the feasibility of implementing it here in the State of Maine. We hear such a cry for reform of our welfare system to make our spending more accountable, to get people off the rolls, to break the cycle. This is one creative method to do it. It has been proven effective in the State of Oregon.

A couple of things to keep in mind is this program would not allow employers to lay off current employees and have them replaced by those people who are currently receiving AFDC and food stamps. What it would do, it would increase the productivity of the employer while at the same time giving the person who was before just receiving AFDC, just receiving unemployment, just receiving food stamps, it would give them a chance to get right into the work force. If they have an aptitude for mechanics they could work at a local garage fixing cars if there was a need there and the employer couldn't afford to hire on a new employee with all the benefits and with all the costs it would accrue. I see the chamber is starting to wane out. If you would just take a look at the legislation, it has been successful in Oregon, it is only resolved to study the feasibility of such a program. It's true we would have to be granted waivers by the Federal Government in order to do this, it would take a little bit of initiative on the part of the Department of Human Services and the Department of Labor. I think it's worth our consideration for such a program. It is innovative, it is creative, it is a way to try and break the cycle and I hope that you will vote against the pending motion so that we can, in fact, adopt the Majority bipartisan Ought to Pass Report. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Lincoln, Senator Begley.

Senator **BEGLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would echo his point that the Majority of the Labor Committee voted in favor of this simply on the point of view that he pointed out that this is going to be a plan presented by the Commissioner of Labor back to the Legislature for our consideration at that time on a problem that the Department of Labor and the Labor Committee has been struggling with for a long time. I, too, suggest that you do not accept the Ought Not to Pass Report. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Handy.

Senator **HANDY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Myself and the other

signers of the Ought Not to Pass Report signed this way for pretty much three distinct reasons. One, an individual who qualifies for unemployment insurance qualifies because they worked the requisite number of quarters, made the requisite amount of money in order to qualify and through no fault of their own, find themselves unemployed. Unemployment insurance is a stopgap measure so that that individual may find themselves feeding their families and themselves, heating their homes and keeping themselves and their children clothed until they find work. Which leads us to the second point, individuals who find themselves collecting unemployment insurance must, as a requirement, actively search for work. The representative of the Maine Job Service provides such a person with a name of an employer, they must pursue that, otherwise their unemployment insurance will be terminated. Furthermore, and as an aside, from the addition waivers, numerous waivers that are required to implement such a program from the Federal Government, we see this as a cart before the horse measure. Also the Human Resources Committee has reported out unanimously a welfare reform measure dealing with Aspire and we feel that that should be able to take its course. As well, the same Committee has other legislation dealing with programs under the Department of Labor and the Department of Human Services in this area and we think that should go forward through the legislative process before we start looking into this.

I must say that the title of this act, "An Act to Establish a Full Employment Program as a Pilot Project in Certain Counties of the State" really perpetrates a cruel hoax on the unemployed of this State. With unemployment rates ranging all the way up to 14% in at least one county of the State, others are similarly high, to suggest that there are jobs out there that people can get certainly is unfortunate. I hope you will support the Ought Not to Pass Report. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. If I could just respond to the points that the good Senator from Androscoggin made. First, as far as the question of unemployment benefits that the individual would have to qualify. Let me state that the pool of monies are not only unemployment benefits that have been paid in by the employers, it is also AFDC payments and food stamps and it is very important that you hear this point, it is voluntary, purely voluntary on the part of the recipient. The second point is as far as the individual, if they are on unemployment, yes they do actively have to search for work. Not so if it is AFDC or food stamps but let me say as far as an employer goes, I was in a similar situation. I was approached by a lady who had just graduated from paralegal school and she wanted a job. I didn't have enough business to hire her on, yet she was involved with a disability from a previous job where she has been retrained. She was involved with a creative work program where the insurance company paid half of her wage and I paid the other half. What was the benefit? You had a person who was directly out of school who had no experience, everywhere she went the question was asked how much experience do you have. The response was I don't have any. The further response from the employer was once you get experience come on back and we will take a look at you. What this was able to do was to give her a job that wasn't there before. I didn't have the resources to hire her on as an employee, pay her an

adequate wage, and pay her the benefits. Now we have a very similar situation with this Full Employment Program and I would argue that yes, there are employers out there who could take on additional employees if there was some type of assistance there to give a training, work experience aspect to the job. The third point that the good Senator from Androscoggin made was the waivers. I would argue that over the last few sessions we have gone to the Federal Government for a number of waivers. Just because we have to submit for the waivers now should be no reason to defer from taking action now. It's not a question of putting the cart before the horse, with the efforts that the Human Resources Committee has made on this I think it is only beneficial if we can look at all of the options that are available to us. Too often we wait and say let's see how this works out, let's see how that works out. This has worked in Oregon, it is proven. Yes it will take us some time to get it up to speed. It is not something that we can implement tomorrow, it is not something that we can implement in July. It will probably take a good year to get the waivers, to get the program in place, to choose a county or counties that would mesh with that type of program. I represent one of those districts which is flirting with a 15% unemployment rate. This bill would help people in my district by opening up jobs from employers who otherwise would not. With that I ask that you vote against the pending motion so that we can accept the Majority Ought to Pass. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion of Senator **HANDY** of Androscoggin, to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report.

The Chair ordered a Division.

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

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

14 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion of Senator **HANDY** of Androscoggin, to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, **FAILED**.

The Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-204) **READ** and **ADOPTED**.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

SENATE REPORTS - from the Committee on **LEGAL AFFAIRS** on Bill "An Act Establishing Weapons License Reciprocity"

S.P. 388 L.D. 1183

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-209)**

Minority - **Ought Not to Pass**

Tabled - May 25, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of the Majority **OUGHT TO PASS AS AMENDED** Report

(In Senate, May 25, 1993, Reports **READ**. The Chair moved to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending **ACCEPTANCE** of the Majority **OUGHT TO PASS AS AMENDED** Report.

Pending - the motion by Senator **HARRIMAN** of Cumberland to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE**

(In Senate, May 25, 1993, Reports **READ**.)

(In House, May 25, 1993, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending the motion by Senator **HARRIMAN** of Cumberland to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** REPORT in **NON-CONCURRENCE**.

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Off Record Remarks

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The Chair laid before the Senate the Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on **HUMAN RESOURCES** on Bill "An Act to Eliminate the Prescription Requirement for Hypodermic Syringes"  
H.P. 587 L.D. 791

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-388)**

Minority - **Ought Not to Pass**

Tabled - May 25, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

(In Senate, May 25, 1993, Reports **READ**.)

(In House, May 25, 1993, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-388) AS AMENDED BY HOUSE AMENDMENT "A" (H-418)** thereto.)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending **ACCEPTANCE** of Either Report.

On motion by Senator **SUMMERS** of Cumberland, **ADJOURNED** until Wednesday, May 26, 1993, at 9:00 in the morning.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on **HUMAN RESOURCES** on Bill "An Act to Promote Financial Responsibility and Family Planning" (Governor's Bill)  
H.P. 1115 L.D. 1510

Majority - **Ought Not to Pass**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-414)**

Tabled - May 25, 1993, by Senator **ESTY** of Cumberland.