

# MAINE STATE LEGISLATURE

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

**VOLUME VI**

**SECOND REGULAR SESSION**

**Senate**  
January 5, 1994 to April 6, 1994

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

In Senate Chamber  
Tuesday  
January 11, 1994

Resolve, to Simplify the Schedule of Fees for Licenses Issued by the Department of Inland Fisheries and Wildlife

H.P. 1224 L.D. 1643

Comes from the House referred to the Committee on **FISHERIES & WILDLIFE** and **ORDERED PRINTED**.

Which was referred to the Committee on **FISHERIES & WILDLIFE** and **ORDERED PRINTED**, in concurrence.

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

Bill "An Act to Clarify the Application of Nursing Facility Admissions Criteria" (Emergency)  
H.P. 1230 L.D. 1650

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

On motion by Senator **ESTY** of Cumberland, referred to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and **ORDERED PRINTED** in **NON-CONCURRENCE**.

Sent down for concurrence.

Bill "An Act to Provide Support for a Transitional Living Program in Cumberland County" (Emergency)

H.P. 1225 L.D. 1644

Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** suggested and **ORDERED PRINTED**.

Comes from the House referred to the Committee on **HUMAN RESOURCES**.

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

Bill "An Act to Have Mandatory HIV Testing for Assailants of Law Enforcement Officers"  
H.P. 1228 L.D. 1647

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.

Prayer by Reverend David Sparks of the First Church of the Nazarene in Augusta.

**REVEREND DAVID SPARKS:** Let us pray. All mighty God you have given us this great State as our heritage. We humbly pray that we might always remember your generosity and faithfully do your will. Bless our State and our leaders with your gracious presence. Give them courage to face the truth, prudence to make sound judgments and the willingness to work for a strong State. Lead them to choose the harder right instead of the easier wrong. Help them to appreciate the opportunities that are theirs, and to bring harmony, mercy, security and worthwhile change for the good of all of the people. Guide them, Father, by your providence and grant wisdom and strength to know and to do your will. May we ever be mindful of our calling to serve. The Good Master said, "You are the light of the world, now in all your deliberations, actions and reactions, may the light of the love and the mercy of God be seen." Amen.

Reading of the Journal of Thursday, January 6, 1994.

**PAPERS FROM THE HOUSE**

**House Papers**

Bill "An Act to Redefine the Maine State Cultural Affairs Council"

H.P. 1227 L.D. 1646

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

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

Bill "An Act Concerning the Identification of Shellfish"

H.P. 1226 L.D. 1645

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

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

Bill "An Act to Establish a Financial Assistance Program for Utilities Burdened as a Result of State Highway Construction"

H.P. 1223 L.D. 1642

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

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

Off Record Remarks

**COMMUNICATIONS**

The Following Communication:

**MARGARET CHASE SMITH CENTER  
UNIVERSITY OF MAINE  
5715 COBURN HALL  
ORONO, ME 04469-5715**

The Honorable Dennis L. Dutremble  
President of the Senate  
State House Station #3  
Augusta, ME 04333

Dear President Dutremble:

In accordance with 1967 Public Law, Chapter 493, I am pleased to enclose copies of the report for the 1993 Maine State Government Internship Program.

The 1993 Internship Program placed twenty-seven Maine College Students in six State Agencies for a 12-week paid work experience. Evaluations from both Interns and Supervisors again affirmed the value of this experience for both students and State Government.

We are pleased to be associated with the Program and would be happy to answer any questions you might have.

Sincerely,

S/Steven Ballard  
Director

Which was **READ** and with Accompanying Papers **ORDERED PLACED ON FILE**.

The Following Communication:

**STATE OF MAINE  
DEPARTMENT OF AUDIT  
STATE HOUSE STATION 66  
AUGUSTA, ME 04333**

January 5, 1994

Senator Dennis L. Dutremble  
President of the Senate  
State House Station #3  
Augusta, ME 04333

Dear President Dutremble:

I submit herewith the Eighty-Fifth Annual Report of the State Auditor as required by Title 5, Section 244 of the Maine Revised Statutes.

I would like to express my special appreciation to the managers and staff of the Department of Audit for their continued support of quality audits and to the officials and employees of the various state departments, courts, counties and municipalities for their cooperation with this department.

Respectfully submitted,

S/Rodney L. Scribner, CPA  
State Auditor

Which was **READ** and with Accompanying Papers **ORDERED PLACED ON FILE**.

**SENATE PAPERS**

**RESOLUTION**, Proposing an Amendment to the Constitution of Maine to Establish a Schedule for Paying Off the Unfunded Liability of the Maine State Retirement System

S.P. 607 L.D. 1705

Presented by Senator **BUSTIN** of Kennebec  
Cosponsored by Senators: **MCCORMICK** of Kennebec, **TITCOMB** of Cumberland, Representatives: **CARROLL** of Gray, **DAGGETT** of Augusta  
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.

Which was referred to the Committee on **AGING, RETIREMENT & VETERANS** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Promote Flexibility in Health Care Delivery Systems"

S.P. 592 L.D. 1651

Presented by Senator **CONLEY** of Cumberland  
Cosponsored by Senator: **KIEFFER** of Aroostook,  
Representatives: **CARLETON** of Wells, **ERWIN** of  
Rumford, **GWADOSKY** of Fairfield, **KUTASI** of  
Bridgton, **PINEAU** of Jay  
Approved for introduction by a majority of the  
Legislative Council pursuant to Joint Rule 26.

Bill "An Act Concerning the Payment of Medical Expenses in Controverted Workers' Compensation Cases"

S.P. 605 L.D. 1703

Presented by Senator **BUSTIN** of Kennebec  
Cosponsored by Senator: **CONLEY** of Cumberland,  
Representatives: **CHASE** of China, **DAGGETT** of  
Augusta, **MELENDY** of Rockland, **PINEAU** of Jay,  
**TRACY** of Rome  
Approved for introduction by a majority of the  
Legislative Council pursuant to Joint Rule 26.

Bill "An Act to Protect Consumers in Loan Broker Transactions"

S.P. 610 L.D. 1708

Presented by Senator **CARPENTER** of York  
Cosponsored by Senator: **BRANNIGAN** of  
Cumberland, Representatives: **CARLETON** of Wells,  
**REED** of Falmouth  
Submitted by the Department of Professional and  
Financial Regulation pursuant to Joint Rule 24.

Which were referred to the Committee on **BANKING & INSURANCE** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Amend the Petroleum Market Share Act"

S.P. 596 L.D. 1655

Presented by Senator **BALDACCI** of Penobscot  
Submitted by the Department of the Attorney  
General pursuant to Joint Rule 24.

Bill "An Act to Clarify Agency Relationships in Real Estate Transactions"

S.P. 616 L.D. 1714

Presented by Senator **CARPENTER** of York  
Cosponsored by Senator: **SUMMERS** of Cumberland,  
Representative: **LIBBY** of Kennebunk  
Approved for introduction by a majority of the  
Legislative Council pursuant to Joint Rule 26.

Which were referred to the Committee on **BUSINESS LEGISLATION** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Clarify the Method for Calculating Inmate Good Time"

S.P. 597 L.D. 1656

Presented by Senator **BUSTIN** of Kennebec  
Cosponsored by Senator: **KIEFFER** of Aroostook,  
Representative: **CLUKEY** of Houlton  
Submitted by the Department of Corrections  
pursuant to Joint Rule 24.

Bill "An Act to Revise the Execution of Certain Mandatory Consecutive Sentences"

S.P. 608 L.D. 1706

Presented by Senator **HANLEY** of Oxford  
Submitted by the Department of Corrections  
pursuant to Joint Rule 24.

Which were referred to the Joint Select Committee on **CORRECTIONS** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Authorize the Maine State Prison and the Maine Correctional Institution - Warren to Combine Accounts"

S.P. 593 L.D. 1652

Presented by Senator **FOSTER** of Hancock  
Cosponsored by Representative: **CROSS** of  
Dover-Foxcroft  
Submitted by the Department of Corrections  
pursuant to Joint Rule 24.

Joint Select Committee on **CORRECTIONS** suggested and **ORDERED PRINTED**.

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

Bill "An Act to Eliminate the Maine School Building Authority"

S.P. 600 L.D. 1698

Presented by Senator **AMERO** of Cumberland  
Cosponsored by Senator: **KIEFFER** of Aroostook,  
Representative: **PFEIFFER** of Brunswick  
Submitted by the Department of Education pursuant  
to Joint Rule 24.

Bill "An Act to Establish the Debt Service Limit for Fiscal Year 1997 and Fiscal Year 1998"

S.P. 601 L.D. 1699

Presented by Senator **AMERO** of Cumberland  
Cosponsored by Senator: **O'DEA** of Penobscot,  
Representatives: **FOSS** of Yarmouth, **MITCHELL** of  
Vassalboro  
Submitted by the Department of Education pursuant  
to Joint Rule 24.

Bill "An Act Regarding the Implementation of the Provisions of the Higher Education Act of 1965 as Amended" (Emergency)

S.P. 606 L.D. 1704

Presented by Senator **AMERO** of Cumberland  
 Cosponsored by Senator: **O'DEA** of Penobscot,  
 Representatives: **PINETTE** of Fort Kent, **SMALL** of  
 Bath, **STEVENS** of Orono  
 Submitted by the Department of Education pursuant  
 to Joint Rule 24.

Which were referred to the Committee on  
**EDUCATION** and **ORDERED PRINTED.**

Sent down for concurrence.

Bill "An Act Pertaining to Stage II Vapor Recovery" (Emergency)

S.P. 595 L.D. 1654

Presented by Senator **CIANCHETTE** of Somerset  
 Cosponsored by Senator: **LUDWIG** of Aroostook,  
 Representatives: **GOULD** of Greenville, **JACQUES** of  
 Waterville, **LORD** of Waterboro, **REED** of Dexter  
 Approved for introduction by a majority of the  
 Legislative Council pursuant to Joint Rule 26.

Which was referred to the Committee on **ENERGY & NATURAL RESOURCES** and **ORDERED PRINTED.**

Sent down for concurrence.

Bill "An Act to Amend the Probate Code with Respect to Powers of Fiduciaries"

S.P. 598 L.D. 1657

Presented by Senator **CONLEY** of Cumberland  
 Cosponsored by Representative: **COTE** of Auburn  
 Approved for introduction by a majority of the  
 Legislative Council pursuant to Joint Rule 26.

Bill "An Act to Maintain Confidentiality of Certain Information Received by the Board of Counseling Professionals Licensure and the State Board of Substance Abuse Counselors"

S.P. 602 L.D. 1700

Presented by Senator **LUDWIG** of Aroostook  
 Cosponsored by Senators: **AMERO** of Cumberland,  
**BERUBE** of Androscoggin, **CARPENTER** of York,  
**CONLEY** of Cumberland, **HALL** of Piscataquis,  
**HANLEY** of Oxford, Representatives: **CLUKEY** of  
 Houlton, **COTE** of Auburn, **GOULD** of Greenville  
 Approved for introduction by a majority of the  
 Legislative Council pursuant to Joint Rule 26.

Bill "An Act to Provide Better Information Concerning Tort Reform"

S.P. 609 L.D. 1707

Presented by Senator **CONLEY** of Cumberland  
 Cosponsored by Representatives: **COTE** of Auburn,  
**FAIRCLOTH** of Bangor  
 Approved for introduction by a majority of the  
 Legislative Council pursuant to Joint Rule 26.

Bill "An Act to Clarify the Assignment of Hotel Revenues as Rent under Maine Law"

S.P. 611 L.D. 1709

Presented by Senator **CONLEY** of Cumberland  
 Approved for introduction by a majority of the  
 Legislative Council pursuant to Joint Rule 26.

Bill "An Act to Clarify Maine Corporate Laws"

S.P. 615 L.D. 1713

Presented by Senator **CONLEY** of Cumberland  
 Cosponsored by Representatives: **LOOK** of  
 Jonesboro, **ROWE** of Portland  
 Submitted by the Department of the Secretary of  
 State pursuant to Joint Rule 24.

Which were referred to the Committee on  
**JUDICIARY** and **ORDERED PRINTED.**

Sent down for concurrence.

Bill "An Act to Amend the Private Security Guards Act"

S.P. 599 L.D. 1658

Presented by Senator **HALL** of Piscataquis  
 Cosponsored by Representatives: **BOWERS** of  
 Washington, **CLUKEY** of Houlton, **ROBICHAUD** of  
 Caribou, **STEVENS** of Sabattus  
 Submitted by the Department of Public Safety  
 pursuant to Joint Rule 24.

Bill "An Act to Simplify the State's Liquor Tax"

S.P. 612 L.D. 1710

Presented by Senator **HALL** of Piscataquis  
 Submitted by the Department of Administrative and  
 Financial Services pursuant to Joint Rule 24.

Bill "An Act to Clarify Liquor Licensing Authority"

S.P. 614 L.D. 1712

Presented by Senator **HALL** of Piscataquis  
 Cosponsored by Senator: **SUMMERS** of Cumberland,  
 Representatives: **CLARK** of Millinocket, **KERR** of  
 Old Orchard Beach, **STEVENS** of Sabattus, **TRUE** of  
 Fryeburg  
 Submitted by the Department of Public Safety  
 pursuant to Joint Rule 24.

Which were referred to the Committee on **LEGAL AFFAIRS** and **ORDERED PRINTED.**

Sent down for concurrence.

Bill "An Act to Assess Excise Tax on a Pro Rata Basis on Automobiles Utilized for Rental"

S.P. 603 L.D. 1701

Presented by Senator **CAHILL** of Sagadahoc  
Cosponsored by Senator: **BALDACCI** of Penobscot,  
Representative: **SIMONEAU** of Thomaston  
Approved for introduction by a majority of the  
Legislative Council pursuant to Joint Rule 26.

**COMMITTEE ON HUMAN RESOURCES  
ONE HUNDRED AND SIXTEENTH LEGISLATURE**

January 10, 1994

Bill "An Act to Conform the Maine Tax Laws for  
1993 With the United States Internal Revenue Code"  
(Emergency)

S.P. 604 L.D. 1702

Presented by Senator **SUMMERS** of Cumberland  
Submitted by the Department of Administrative and  
Financial Services pursuant to Joint Rule 24.

The Honorable Dennis L. Dutremble  
President of the Senate of Maine  
116th Maine Legislature  
State House  
Augusta, Maine 04333

Dear Mr. President:

In accordance with 3 M.R.S.A., Chapter 6, Section  
151, and with Joint Rule 38 of the 116th Maine  
Legislature, the Joint Standing Committee on Human  
Resources has had under consideration the nomination  
of Sue W. Davenport of Marstons Mills, MA, for  
appointment as the Commissioner of the Department of  
Mental Health and Mental Retardation.

After public hearing and discussion on this  
nomination, the Committee proceeded to vote on the  
motion to recommend to the Senate that this  
nomination be confirmed. The Committee Clerk called  
the roll with the following result:

Bill "An Act Concerning Technical Changes to the  
Tax Laws" (Emergency)

S.P. 613 L.D. 1711

Presented by Senator **SUMMERS** of Cumberland  
Submitted by the Department of Administrative and  
Financial Services pursuant to Joint Rule 24.

Which were referred to the Committee on  
**TAXATION** and **ORDERED PRINTED**.

Sent down for concurrence.

YEAS:	Sen. 2	Paradis of Aroostook, Harriman of Cumberland
	Rep. 10	Treat of Gardiner, Gean of Alfred, Beam of Lewiston, Brennan of Portland, Fitzpatrick of Durham, Johnson of South Portland, Townsend of Portland, Pendleton of Scarborough, Pendexter of Scarborough, Bruno of Raymond

NAYS: 0

ABSENT: 1 Sen. Baldacci of Penobscot

Twelve members of the Committee having voted in  
the affirmative and none in the negative, it was the  
vote of the Committee that the nomination of Sue W.  
Davenport of Marstons Mills, MA, for appointment as  
the Commissioner of the Department of Mental Health  
and Mental Retardation be confirmed.

Signed:

S/Judy A. Paradis  
Senate Chair

S/Sharon Anglin Treat  
House Chair

Which was **READ** and **ORDERED PLACED ON FILE**.

**THE PRESIDENT:** The Joint Standing Committee on  
Human Resources has recommended the nomination of Sue  
W. Davenport of Marstons Mills, MA be confirmed.

The pending question before the Senate is:  
"Shall the recommendation of the Committee on Human  
Resources be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section  
151 and with Joint Rule 38 of the 116th Legislature,  
the vote will be taken by the Yeas and Nays.

A vote of Yes will be in favor of overriding the  
recommendation of the Committee.

Bill "An Act to Enable the Use of Former Exit 5  
on the Maine Turnpike for Access to an Adjacent  
Liquor Store and Hotel and Conference Center Facility"  
S.P. 594 L.D. 1653

Presented by President **DUTREMBLE** of York  
Cosponsored by Senator **SUMMERS** of Cumberland,  
Representative **NADEAU** of Saco and  
Representatives: **KERR** of Old Orchard Beach,  
**PENDLETON** of Scarborough  
Approved for introduction by a majority of the  
Legislative Council pursuant to Joint Rule 26.

Which was referred to the Committee on  
**TRANSPORTATION** and **ORDERED PRINTED**.

Sent down for concurrence.

Senate at Ease

Senate called to order by the President.

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

**COMMUNICATIONS**

The Following Communication:

A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

YEAS: Senators None

NAYS: Senators AMERO, BALDACCI, BEGLEY, BERUBE, BRANNIGAN, BUSTIN, BUTLAND, CAHILL, CARPENTER, CIANCHETTE, CLEVELAND, ESTY, GOULD, HALL, HANDY, HANLEY, HARRIMAN, KIEFFER, LAWRENCE, LUDWIG, LUTHER, MARDEN, MCCORMICK, O'DEA, PARADIS, PEARSON, PINGREE, SUMMERS, TITCOMB, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE

ABSENT: Senators CAREY, CONLEY, FOSTER, WEBSTER

No Senators having voted in the affirmative and 31 Senators having voted in the negative, with 4 Senators being absent, and none being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of Sue W. Davenport, was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

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

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

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

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Off Record Remarks

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On motion by Senator **MARDEN** of Kennebec, **ADJOURNED** until Thursday, January 13, 1994, at 4:00 in the afternoon.