

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LEGISLATIVE RECORD

OF THE

One Hundred And Seventeenth Legislature

OF THE

State Of Maine

VOLUME VI

SECOND REGULAR SESSION

House of Representatives

January 3, 1996 to April 3, 1996

Senate

January 3, 1996 to March 13, 1996

ONE HUNDRED AND SEVENTEENTH MAINE LEGISLATURE
SECOND REGULAR SESSION
2nd Legislative Day
Thursday, January 4, 1996

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

Prayer by Honorable Birger T. Johnson of South Portland.

Physician for the day, John Saucier, M.D., Maine Medical Center, Portland.

The Journal of yesterday was read and approved.

SENATE PAPERS

Bill "An Act to Clarify Professional Liability" (S.P. 627) (L.D. 1634)

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

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

Bill "An Act to Clarify the Laws Governing the Calculation of Interest on Decrees under the Workers' Compensation Laws" (S.P. 626) (L.D. 1633)

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

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

Bill "An Act to Amend the Law Concerning Tobacco Use by Juveniles" (S.P. 628) (L.D. 1635)

Came from the Senate, referred to the Committee on **Legal and Veterans Affairs** and Ordered Printed.

Was referred to the Committee on **Legal and Veterans Affairs** in concurrence.

COMMUNICATIONS

The following Communication: (S.P. 629)

STATE OF MAINE

SUPREME JUDICIAL COURT

AUGUSTA, MAINE 04330

November 29, 1995

The Honorable Jeffrey H. Butland
President of the Senate
117th Maine Legislature
Capitol Building - Third Floor
Augusta, Maine 04333

Re: Maine Judicial Compensation Commission
Dear Mr. President:

The law establishing the Maine Judicial Compensation Commission required the Commission to make its biennial report "no later than December 1 of each odd-numbered year..." Because the Commission will not function until all appointments to the Commission are completed, a report for 1995 will not be forthcoming. In hindsight, it is clear that the time frame between the establishment of the Commission and the initial reporting deadline was overly ambitious. Given the inevitable difficulties of the appointment process, a different schedule will be required.

I would hope that at the special session in January, a simple amendment might be considered to establish a different reporting date. I will ask the Compensation Commission to consider such a revised schedule, and a proposed statutory change to reflect

it, as an early item of business when the Commission is finally formed.

Thank you for your continued cooperation and assistance.

Sincerely,

S/Daniel E. Wathen, Chief Justice

Maine Supreme Judicial Court

Came from the Senate, read and ordered placed on file.

Was read and ordered placed on file in concurrence.

The following Communication: (S.P. 630)

117TH MAINE LEGISLATURE

January 2, 1996

Senator S. Peter Mills

Representative Sharon Treat

Chairpersons

Joint Standing Committee on Judiciary

117th Legislature

Augusta, Maine 04333

Dear Senator Mills and Representative Treat:

Please be advised that Governor Angus S. King, Jr. has nominated Christine Foster of Portland for appointment as Judge of the Maine District Court.

Pursuant to Title 4, MRSA Section 157, this nomination will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,

S/Jeffrey H. Butland

President of the Senate

S/Dan A. Gwadosky

Speaker of the House

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

Was read and referred to the Committee on **Judiciary** in concurrence.

The following Communication: (S.P. 614)

**MAINE STATE SENATE
STATE HOUSE STATION 3
AUGUSTA, MAINE 04333**

December 6, 1995

Jeffrey H. Butland
President of the Senate
117th Legislature
Dan A. Gwadosky
Speaker of the House
117th Legislature

Dear Mr. President and Mr. Speaker:

On December 6, 1995, seven bills were received by the Secretary of the Senate.

Pursuant to the provisions of Joint Rule 14, these bills were referred to the Joint Standing Committees on December 6, 1995 as follows:

Education and Cultural Affairs

Bill "An Act to Amend the Law as It Pertains to Payment of Rent by a Blind or Visually Impaired Individual Who Operates a Vending Facility" (S.P. 610) (L.D. 1614) (Presented by Senator MILLS of Somerset) (Cosponsored by Senator: KIEFFER of Aroostook) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26)

Legal and Veteran Affairs

Bill "An Act to Allow Limited Partnerships between Brewers and Wholesalers" (S.P. 607) (L.D. 1611) (Presented by Senator FERGUSON of Oxford) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26)

State and Local Government

Bill "An Act to Repeal the Requirement that Disbursement Warrants Receive an Affirmative Vote by Municipal Officers" (S.P. 608) (L.D. 1612) (Presented by Senator AMERO of Cumberland) (Cosponsored by Senators: ABROMSON of Cumberland, CAREY of Kennebec, CARPENTER of York, CLEVELAND of Androscoggin, GOLDTHWAIT of Hancock, HARRIMAN of Cumberland, Representatives: DUNN of Gray, HARTNETT of Freeport, MARVIN of Cape Elizabeth, REED of Falmouth, SAXL of Bangor) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26)

Bill "An Act to Amend the Piscataquis County Budget Process" (S.P. 611) (L.D. 1615) (Presented by Senator HALL of Piscataquis) (Cosponsored by Representatives: CROSS of Dover-Foxcroft, GOULD of Greenville, ROSEBUSH of East Millinocket) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26)

Bill "An Act to Establish the Penobscot County Budget Committee" (S.P. 613) (L.D. 1617) (Presented by Senator HALL of Piscataquis) (Cosponsored by Senators: CIANCHETTE of Somerset, FAIRCLOTH of Penobscot, MICHAUD of Penobscot, RUHLIN of Penobscot, Representatives: BUNKER of Kossuth Township, CROSS of Dover-Foxcroft, HICHBORN of Lagrange, LANE of Enfield, LUMBRA of Bangor, PLOWMAN of Hampden, REED of Dexter, ROSEBUSH of East Millinocket.)

Taxation

Bill "An Act to Provide Sales Tax Exemption for Generators Leased for Dairy Equipment" (S.P. 609) (L.D. 1613) (Presented by Senator LAWRENCE of York) (Cosponsored by Representatives: MARSHALL of Eliot, MURPHY of Berwick.)

Utilities and Energy

Bill "An Act Relating to Pole Attachment Rate Disputes" (S.P. 612) (L.D. 1616) (Presented by Senator CARPENTER of York) (Cosponsored by Senators: BUTLAND of Cumberland, FERGUSON of Oxford, HATHAWAY of York, KIEFFER of Aroostook, LAWRENCE of York, MICHAUD of Penobscot, O'DEA of Penobscot, PARADIS of Aroostook, Representatives: CARLETON of Wells, DONNELLY of Presque Isle, GIERINGER of Portland, GUERRETTE of Pittston, GWADOSKY of Fairfield, JACQUES of Waterville, JONES of Bar Harbor, KONTOS of Windham, LUTHER of Mexico, MURPHY of Berwick, O'NEAL of Limestone.)

Sincerely,

S/May M. Ross

Secretary of the Senate

S/Joseph W. Mayo

Clerk of the House

Came from the Senate, read and ordered placed on file.

Was read and ordered placed on file in concurrence.

The following Communication: (S.P. 616)

**MAINE STATE SENATE
STATE HOUSE STATION 3
AUGUSTA, MAINE 04333**

December 7, 1995

Jeffrey H. Butland
President of the Senate
117th Legislature
Dan A. Gwadosky
Speaker of the House
117th Legislature

Dear Mr. President and Mr. Speaker:

On December 7, 1995, one bill was received by the Secretary of the Senate.

Pursuant to the provisions of Joint Rule 14, the following bill was referred to the Joint Standing Committee on Judiciary on December 7, 1995:

Bill "An Act to Reform the Standard of Fiduciary Prudence" (S.P. 615) (L.D. 1618) (Presented by Senator AMERO of Cumberland) (Cosponsored by Senator: MILLS of Somerset, Representatives: CARLETON of Wells, LaFOUNTAIN of Biddeford, OTT of York, TREAT of Gardiner) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Sincerely,

S/May M. Ross

Secretary of the Senate

S/Joseph W. Mayo

Clerk of the House

Came from the Senate, read and ordered placed on file.

Was read and ordered placed on file in concurrence.

The following Communication: (S.P. 618)

**MAINE STATE SENATE
STATE HOUSE STATION 3
AUGUSTA, MAINE 04333**

December 18, 1995

Jeffrey H. Butland
President of the Senate
117th Legislature
Dan A. Gwadosky
Speaker of the House
117th Legislature

Dear Mr. President and Mr. Speaker:

On December 18, 1995, one bill was received by the Secretary of the Senate.

Pursuant to the provisions of Joint Rule 14, the following bill was referred to the Joint Standing Committee on Natural Resources on December 18, 1995:

Resolve, Authorizing the Dredging of Wells Harbor and Sand Renourishment of Wells Beaches by the United States Army Corps of Engineers (S.P. 617) (L.D. 1623) (Presented by Senator LORD of York) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Sincerely,

S/May M. Ross

Secretary of the Senate

S/Joseph W. Mayo

Clerk of the House

Came from the Senate, read and ordered placed on file.

Was read and ordered placed on file in concurrence.

The following Communication: (S.P. 623)

**MAINE STATE SENATE
STATE HOUSE STATION 3
AUGUSTA, MAINE 04333**

December 20, 1995

Jeffrey H. Butland
President of the Senate
117th Legislature
Dan A. Gwadosky
Speaker of the House
117th Legislature

Dear Mr. President and Mr. Speaker:

On December 20, 1995, four bills were received by the Secretary of the Senate.

Pursuant to the provisions of Joint Rule 14, these bills were referred to the Joint Standing Committees on December 20, 1995 as follows:

Banking and Insurance

Bill "An Act to Allow the Diagnosis of Biologically-based Mental Illness by Licensed Psychologists" (EMERGENCY) (S.P. 622) (L.D. 1630) (Presented by Senator ABROMSON of Cumberland) (Cosponsored by Representative POVICH of Ellsworth and Senators: AMERO of Cumberland, BUSTIN of Kennebec, CARPENTER of York, FAIRCLOTH of Penobscot, McCORMICK of Kennebec, MILLS of Somerset, PENDEXTER of Cumberland, SMALL of Sagadahoc, Representatives: BRENNAN of Portland, CAMERON of Rumford, DORE of Auburn, KONTOS of Windham, LIBBY of Buxton) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Judiciary

Bill "An Act to Update and Clarify the Corporate Laws" (S.P. 619) (L.D. 1624) (Presented by Senator MILLS of Somerset) (Submitted by the Department of the Secretary of State pursuant to Joint Rule 24.)

Bill "An Act to Restore the Safety Defense to the Maine Human Rights Act" (EMERGENCY) (S.P. 620) (L.D. 1625) (Presented by Senator MILLS of Somerset) (Submitted by the Maine Human Rights Commission pursuant to Joint Rule 24.)

Bill "An Act to Allow Recovery by the State of Costs Incurred by the Department of the Attorney General for Making Intelligence and Investigative Information Available to the Public" (EMERGENCY) (S.P. 621) (L.D. 1626) (Presented by Senator MILLS of Somerset) (Submitted by the Department of the Attorney General pursuant to Joint Rule 24.)

Sincerely,

S/May M. Ross

Secretary of the Senate

S/Joseph W. Mayo

Clerk of the House

Came from the Senate, read and ordered placed on file.

Was read and ordered placed on file in concurrence.

The following Communication: (S.P. 625)

**MAINE STATE SENATE
STATE HOUSE STATION 3
AUGUSTA, MAINE 04333**

December 21, 1995

Jeffrey H. Butland
President of the Senate

117th Legislature

Dan A. Gwadosky

Speaker of the House

117th Legislature

Dear Mr. President and Mr. Speaker:

On December 21, 1995, one bill was received by the Secretary of the Senate.

Pursuant to the provisions of Joint Rule 14, this bill was referred to the Joint Standing Committee on Legal and Veterans Affairs on December 21, 1995:

Bill "An Act Relating to the Sale of Alcoholic Beverages" (S.P. 624) (L.D. 1632) (Presented by Senator FERGUSON of Oxford) (Cosponsored by Representative NADEAU of Saco) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Sincerely,

S/May M. Ross

Secretary of the Senate

S/Joseph W. Mayo

Clerk of the House

Came from the Senate, read and ordered placed on file.

Was read and ordered placed on file in concurrence.

The following Communication: (H.C. 286)

**STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE 04333**

January 2, 1996

The Honorable Dan A. Gwadosky

Speaker, Maine House of Representatives

#2 State House Station

Augusta, Maine 04333

The Honorable Jeffrey H. Butland

President, Maine State Senate

#3 State House Station

Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

This letter is to notify the Legislature that I have accepted and will implement the recommendations of the Productivity Realization Task Force relating to the Department of Economic & Community Development, with the exception of recommendations that require legislative approval.

The recommendations I am accepting today include the elimination of 6 positions, the reclassification of 6 positions and combining 2 positions as recommended by the Task Force. All aspects of the Department's reorganization plan will be implemented except for the merger of the Offices of Tourism and Community Development, the shift of the Office of Energy Conservation into the Office of Business Development, and the shift of the Office of Economic Conversion to the newly created Office of Tourism and Community Development. Other parts of the proposal requiring legislative approval include the transfer of two employees out of the Department, implementation of FY '97 "All Other" savings, and the elimination of two positions.

Consolidation of the Department's personnel and computer systems functions in the Department of Administrative and Financial Services has already received legislative approval.

The recommendations contained in the Department's reorganization plan will result in a savings to the General Fund of \$414,250 over the biennium. The Department of Economic & Community Development has met its goal of improving the delivery of services to the citizens of Maine while improving productivity. The enclosed letter from Commissioner McBrierty provides detailed information about the Productivity Realization Task Force recommendations for the Department. Commissioner McBrierty and his staff are available to provide additional information or respond to questions.

Thank you for your attention to this matter.

Sincerely,

S/Angus S. King, Jr.

Governor

Was read and with accompanying papers ordered placed on file.

The following Communication: (H.C. 287)

**STATE OF MAINE
OFFICE OF THE GOVERNOR**

**1 STATE HOUSE STATION
AUGUSTA, MAINE 04333**

January 2, 1996

The Honorable Dan A. Gwadosky
Speaker, Maine House of Representatives
#2 State House Station
Augusta, Maine 04333

The Honorable Jeffrey H. Butland
President, Maine State Senate
#3 State House Station
Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

This letter is to notify the Legislature that I have accepted and will implement the recommendations of the Productivity Realization Task Force relating to the Department of Environmental Protection, with the exception of two actions that will require legislative approval.

The recommendations affecting the Department of Environmental Protection that I am implementing today will result in a savings over the biennium of \$1,237,377 from all funds. This figure does not include general fund reductions of \$402,393 over the biennium, associated with DEP staff transferred to the previously approved Administrative Services Center. There is a likelihood that the Department may realize more than its estimated cost savings, through earlier implementation of Task Force recommendations and the potential for unemployment insurance and other separation costs to be lower than projected.

The Department of Environmental Protection has met its goal of improving the delivery of services to the citizens of Maine while improving its productivity. The enclosed letter from Commissioner Sullivan provides additional information about the Productivity Realization Task Force recommendations for the Department of Environmental Protection. Commissioner Sullivan and his staff are available to provide additional information or respond to questions.

Thank you for your attention to this matter.

Sincerely,
S/Angus S. King, Jr.
Governor

Was read and with accompanying papers ordered placed on file.

The following Communication: (H.C. 288)

**STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE 04333**

January 2, 1996

The Honorable Dan A. Gwadosky
Speaker, Maine House of Representatives
#2 State House Station
Augusta, Maine 04333

President, Maine State Senate
The Honorable Jeffrey H. Butland
#3 State House Station
Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

This letter is to notify the Legislature that I have accepted and will implement the recommendations of the Productivity Realization Task Force relating to the State Planning Office. No statutory changes are required.

The recommendations I am accepting today include the elimination of three positions. These are in addition to a fourth position which was previously given up as part of the creation of an administrative cluster at the Department of Administrative and Financial Services, in which the State Planning Office is participating.

The recommendations will result in an additional savings of \$311,708, including \$138,795 in FY 96 and \$172,913 in FY 97. This will bring to 15.1% the reduction in the State Planning Office's general fund budget.

The State Planning Office has met its goal of maintaining a high level of services to the state and its decision-makers—in economic analysis and forecasting, in strategic planning and performance-based budgeting, and in land, water, and energy policy—while improving productivity. It has done so, in part, by moving out of a traditional organizational hierarchy—which depends upon earmarked supervisory personnel—and into a team structure, in which project personnel coordinate self-directed teams. This system has enabled the Office to absorb two programs sent to it by the Legislature in the last session (the community planning division of DECD and the remnant of the Waste Management Agency), plus a major new duty in the coordination of the state's strategic planning/performance budgeting, with fewer supervisory personnel.

Attached for your information are excerpts from the State Planning Office's presentation to the Task Force. Director Evan Richert and his staff are available to provide additional information or respond to questions.

Thank you for your attention to this matter.

Sincerely,
S/Angus S. King, Jr.
Governor

Was read and with accompanying papers ordered placed on file.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

The following Bills were received and, upon the recommendation of the Committee on Reference of Bills, were referred to the following Committees, Ordered Printed and Sent up for Concurrence:

Transportation

Bill "An Act to Amend Certain Motor Vehicle Laws Including Those Affecting the University of Maine System Plate and the Certificate of Lien" (H.P. 1195) (L.D. 1639) (Presented by Representative STROUT of Corinth) (Cosponsored by Senator STEVENS of Androscoggin and Representatives: BAILEY of Township 27, HEINO of Boothbay, O'GARA of Westbrook, Senator: CASSIDY of Washington) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Utilities and Energy

Bill "An Act to Amend the Charter of the Boothbay Harbor Water District" (H.P. 1194) (L.D. 1638) (Presented by Representative HEINO of Boothbay) (Cosponsored by Senator BEGLEY of Lincoln and Representative: KONTOS of Windham) (Approved for introduction by a majority of the Legislative Council

pursuant to Joint Rule 27.)

Reported Pursuant to Statutes

Representative HATCH for the Maine State Retirement System pursuant to the Maine Revised Statutes, Title 5, section 17103, subsection 13 asks leave to submit its findings and to report that the accompanying Bill "An Act to Establish the Administrative Operating Budget for the Maine State Retirement System for the Fiscal Year Ending June 30, 1997" (EMERGENCY) (H.P. 1193) (L.D. 1637) be referred to the Joint Standing Committee on Labor for Public Hearing and printed pursuant to Joint Rule 20.

Report was read and accepted, and the Bill referred to the Committee on Labor, ordered printed and sent up for concurrence.

SPECIAL SENTIMENT CALENDAR

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

In Memory of:

Clifton "Clif" Reynolds, a pioneer in Maine broadcast journalism and a television personality at WCSH-TV in Portland for 40 years. Mr. Reynolds anchored the morning news and hosted a variety of shows including the popular "People, Places and Things"; (HLS 764) by Representative LABRECQUE of Gorham. (Cosponsors: Representative REED of Falmouth, Senator ABROMSON of Cumberland)

On objection of Representative LABRECQUE of Gorham was removed from the Special Sentiment Calendar.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Labrecque.

Representative LABRECQUE: Mr. Speaker, Ladies and Gentlemen of the House: In a suburb of Tucson, Arizona on Wednesday, December 27, after a four month battle with cancer, Clifton E. Reynolds died.

Clif Reynolds, the well known radio and television personality who's life has touched many. Clif's 40-plus years in broadcasting had it's beginnings in the late 1940s when he auditioned for and was hired by radio station WGUI Bangor. Clif was not even aware that this broadcasting career was tailored just for him. His work literally became his way of life and he loved it.

When television had it's beginnings, Clif was watching that closely and in 1955, he moved to the greater Portland area having been hired to do live commercials for television station WCSH. He would spend the next 30 odd years with Channel 6. Little did this small struggling station, at that time, realize what a leader they had among them, nor the mark he would leave.

The first of many innovative ideas that Clif put into place was the logo, early morning news programs. How many of you remember starting your day with Clif and a cup of coffee, catching those first glimpses of local breaking news? I heard one of Clif's colleagues say that Clif had interviewed everybody in Maine. Well, perhaps he had, because everybody seems to know him. He didn't interview people as we have come to know interviewing today. He did not shove a camera or a microphone in your face nor ask offending questions. Rather, he talked with you, which put you immediately at ease and you were not aware that you were on television. From these interesting conversations we learned unique things about people, places and things. This program

too was the first to get television out of the news room and on the road.

Clif was one of the last true original pioneers in Maine broadcast journalism. Seven years ago, he retired wintering in Arizona and summering in Maine. We still heard his voice doing those commercials. I have given you a very brief look at Clif's public life. He came into my life on a personal level when he married my sister. However, I never could detect the line between his public personality and his private one. It did not exist.

Clif was what we all got and what we all saw, honest, straight forward and especially witty. He was a caring and loving husband, father and friend and he will be dearly missed. Another colleague amply memorialized Clif by saying quote, "We will remember Clif with a smile." His passing has left a very large hole that will in time be filled with those many smiling memories. Thank you.

Subsequently, was read and adopted and sent up for concurrence.

BILLS IN THE SECOND READING

Bill "An Act to Repeal the Sunset Provision for Distribution from the Maine Environmental Trust Fund" (EMERGENCY) (H.P. 1180) (L.D. 1619)

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

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

SENATE PAPERS

The following Joint Order: (S.P. 631)
ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, January 9, 1996, at 10:00 o'clock in the morning.
Came from the Senate, read and passed.
Was read and passed in concurrence.

On motion of Representative LABRECQUE of Gorham, the House adjourned at 10:00 a.m., pursuant to the Joint Order (S.P. 631) in honor and lasting tribute to the memory of Clifton Reynolds.