

# MAINE STATE LEGISLATURE

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# 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  
15th Legislative Day  
Tuesday, February 20, 1996

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

Prayer by Reverend Sandy Williams, First Baptist Church, Freeport.

National Anthem by Plummer-Motz School Select Chorus, Falmouth.

Physician for the day, John F. Gaddis, D.O., Down East Community Hospital, Machias.

The Journal of Thursday, February 15, 1996 was read and approved.

**SENATE PAPERS**

The following Communication: (H.C. 340)  
Maine State Senate  
State House Station 3  
Augusta, Maine 04333

February 15, 1996

The Honorable Dan A. Gwadosky  
Speaker of the House  
117th Legislature  
Augusta, Maine 04333

Dear Speaker Gwadosky:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed the following:

Upon the recommendation of the Joint Standing Committee on Agriculture, Conservation and Forestry:

Colon E. Durrell of Farmington for reappointment as a member of the Maine Milk Commission, and  
Katherine O. Musgrave of Orono for reappointment as a member of the Maine Milk Commission;

Upon the recommendation of the Joint Standing Committee on Natural Resources:

Osmond C. Bonsey of Surry for reappointment as a member of the Board of Environmental Protection.

Sincerely,

S/May M. Ross

Secretary of the Senate

Was read and ordered placed on file.

**COMMUNICATIONS**

The following Communication: (H.C. 339)  
COMMISSION TO STUDY OPTIONS FOR  
PRESERVING THE DAIRY INDUSTRY IN THE STATE  
MAINE STATE LEGISLATURE  
AUGUSTA, MAINE 04333

February 15, 1996

The Honorable Jeffrey H. Butland  
The Honorable Dan A. Gwadosky  
Maine Legislature  
State House  
Augusta, Maine 04333

Re: Transmittal of the Report of the Dairy Industry Study Commission

Dear President Butland and Speaker Gwadosky,

In accordance with Resolves 1995, chapter 35, this will transmit the report of the Commission to Study Options for Preserving the Dairy Industry in the State.

The Commission found that study of this issue to be most necessary and timely and feels that it is making recommendations that should provide assistance to Maine dairy farms.

Dairy farming is a major contributor to the Maine economy, but it is a declining contributor. Dairy farms had cash receipts of \$92,000,000 in 1993 placing dairy as tied for second among Maine's agricultural commodities with a 20% share but that share has declined 2 percentage points since 1987. Dairy farms directly account for 1,725 jobs and indirectly for 1,846 more. However, Maine has lost 51% of its dairy farms since 1978, and if this loss continues, the industry will no longer be able to support its three feed mills and four dairy processors, which will result in not only the loss of these jobs but an inadequate infrastructure to support the remaining farms.

Dairy farms in Maine face inherent problems that go beyond the national problems of the industry. Maine has poor forage quality, small farms, and high costs for transporting feed and fertilizer. To compensate for these Maine has set its own prices rather than being under the federal program. Unfortunately, processor prices, while still above the Northeast average, have declined 5% since 1989 while expenses have increased 18% resulting in a loss in Maine's net income per farm of 21%, 20% below the Northeast average.

The Commission is recommending the following:

1. Less severe penalties for withdrawal from the Farm Tax Law.

2. Elimination of the sales tax on farm electricity.

3. Continuation of the dairy farm appropriation.

4. Passage of the amended version of "An Act to Authorize a General Fund Bond Issue in the Amount of \$3,000,000 to Agricultural Enterprises in Maine."

5. Development of a plan to bring hands on management education to the farmers.

6. A request that the Agricultural Extension Service work on development of better forage.

7. Additional promotion of milk with emphasis on the Maine Quality Seal, supported with money from the defunct Dairy Stabilization Tax Program.

8. That the authority of the Dairy Promotion Board & Dairy & Nutrition Council be transferred to a public instrumentality.

9. A request to the Congressional delegation that they work to have dairy products included in the North American Free Trade Agreement with Canada.

Coincident with this report, six supporting pieces of legislation are being submitted to the Revisor of Statutes.

The Commission appreciates the opportunity to work on this very important issue for the State and hopes that the Legislature will act favorably on its recommendations.

Respectfully Submitted,

S/Rep. Robert W. Spear, Chairman

Commission to Study Options to Preserve the Dairy Industry in the State

Was read and with accompanying report referred to the Committee on Agriculture, Conservation and Forestry.

The following Communication: (S.P. 702)

117TH MAINE LEGISLATURE

February 14, 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 the following:

The Honorable Carl O. Bradford of Yarmouth for reappointment as a Justice of the Maine Superior Court, pursuant to the Constitution, Article V, Part 1, Section 8, and

The Honorable Ellen A. Gorman of Durham for reappointment as Maine District Court Judge, pursuant to Title 4, MRSA, Section 157.

These nominations 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.

#### PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

The following Bills and Resolves 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:

#### Business and Economic Development

Bill "An Act to Provide for the 1996 and 1997 Allocations of the State Ceiling on Private Activity Bonds" (EMERGENCY) (H.P. 1317) (L.D. 1801) (Presented by Speaker GWADOSKY of Fairfield) (Cosponsored by Representatives: MITCHELL of Vassalboro, ROWE of Portland, Senators: GOLDTHWAIT of Hancock, HARRIMAN of Cumberland) (Governor's Bill)

Bill "An Act to Consolidate and Improve Delivery of International Trade Services in Maine" (H.P. 1318) (L.D. 1802) (Presented by Speaker GWADOSKY of Fairfield) (Cosponsored by Senator BUTLAND of Cumberland and Representative: ROWE of Portland, Senator: HARRIMAN of Cumberland) (Governor's Bill)

#### Criminal Justice

Bill "An Act to Facilitate the Lawful Detention of Juveniles" (EMERGENCY) (H.P. 1312) (L.D. 1796) (Presented by Representative CLUKEY of Houlton) (Cosponsored by Representatives: BUNKER of Kossuth Township, McALEVEY of Waterboro, THOMPSON of Naples) (Governor's Bill)

#### Education and Cultural Affairs

Resolve, to Recognize the Maine School for the Arts and the Maine High School for the Arts (EMERGENCY) (H.P. 1316) (L.D. 1800) (Presented by Representative LUMBRA of Bangor) (Cosponsored by Senator PARADIS of Aroostook and Representatives: BIRNEY of Paris, CAMPBELL of Holden, CARR of Hermon, CHICK of Lebanon, DAVIDSON of Brunswick, FARNUM of South Berwick, GIERINGER of Portland, HICHBORN of Lagrange, JONES of Pittsfield, JOY of Crystal, KEANE of Old Town, LANE of Enfield, LEMONT of Kittery, LOOK

of Jonesboro, LOVETT of Scarborough, MARSHALL of Eliot, McALEVEY of Waterboro, MERES of Norridgewock, MORRISON of Bangor, MURPHY of Berwick, PENDLETON of Scarborough, PERKINS of Penobscot, PINKHAM of Lamoine, PLOWMAN of Hampden, RICE of South Bristol, SAXL of Bangor, SPEAR of Nobleboro, STEDMAN of Hartland, STONE of Bangor, UNDERWOOD of Oxford, WATERHOUSE of Bridgton, WHITCOMB of Waldo, WINGLASS of Auburn, WINN of Glenburn, Senators: HANLEY of Oxford, HATHAWAY of York, MICHAUD of Penobscot) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

#### Human Resources

Bill "An Act to Clarify the Laws Pertaining to the Regulation of Narcotic Dependency Treatment Programs" (H.P. 1311) (L.D. 1795) (Presented by Representative AULT of Wayne) (Cosponsored by Representatives: BRENNAN of Portland, CHICK of Lebanon) (Submitted by the Department of Human Services pursuant to Joint Rule 24.)

#### Judiciary

Bill "An Act Concerning Notice in Foreclosure Proceedings" (H.P. 1315) (L.D. 1799) (Presented by Representative TUTTLE of Sanford) (Cosponsored by Speaker GWADOSKY of Fairfield and Representatives: BERRY of Livermore, BUNKER of Kossuth Township, CARR of Hermon, CHASE of China, CHIZMAR of Lisbon, CLARK of Millinocket, GATES of Rockport, JACQUES of Waterville, JONES of Pittsfield, MAYO of Bath, MITCHELL of Vassalboro, MORRISON of Bangor, PAUL of Sanford, SAMSON of Jay, SAXL of Portland, TOWNSEND of Portland, TYLER of Windham, VIGUE of Winslow, WINSOR of Norway) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

#### Reported Pursuant to Public Law

Representative FITZPATRICK for the Maine Health Care Reform Commission pursuant to Public Law 1993, chapter 707, Part AA, section 5 asks leave to submit its findings and to report that the accompanying Bill "An Act to Create a Multi-payor System for Universal Health Care" (H.P. 1314) (L.D. 1798) be referred to the Joint Standing Committee on Banking and Insurance for Public Hearing and printed pursuant to Joint Rule 20.

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

#### Reported Pursuant to Public Law

Representative FITZPATRICK for the Maine Health Care Reform Commission pursuant to Public Law 1993, chapter 707, Part AA, section 5 asks leave to submit its findings and to report that the accompanying Bill "An Act to Create a Single-payor System for Universal Health Care" (H.P. 1319) (L.D. 1803) be referred to the Joint Standing Committee on Human Resources for Public Hearing and printed pursuant to Joint Rule 20.

Report was read and accepted.

On motion of Representative VIGUE of Winslow, the Bill was referred to the Committee on Banking and Insurance, ordered printed and sent up for concurrence.

**Reported Pursuant to Resolve**

Representative GOULD for the Land and Water Resources Council pursuant to Resolve 1995, chapter 21 asks leave to submit its findings and to report that the accompanying Resolve, Directing the Land and Water Resources Council to Take Steps Needed to Ensure Successful Implementation of State Land Use Law Reforms (H.P. 1310) (L.D. 1794) be referred to the Joint Standing Committee on **Natural Resources** for Public Hearing and printed pursuant to Joint Rule 20.

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

**Reported Pursuant to Resolve**

Representative ROWE for the Task Force on Tax Increment Financing pursuant to Resolve 1995, chapter 51, section 9 asks leave to submit its findings and to report that the accompanying Bill "An Act to Implement the Recommendations of the Task Force on Tax Increment Financing" (H.P. 1313) (L.D. 1797) be referred to the Joint Standing Committee on **Taxation** for Public Hearing and printed pursuant to Joint Rule 20.

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

**REPORTS OF COMMITTEES**

**Ought to Pass as Amended**

Representative REED from the Committee on **Taxation** on Bill "An Act to Exempt from the Sales Tax Automobile Equipment Necessary for Paraplegics or People Who are Confined to Wheelchairs" (H.P. 540) (L.D. 736) reporting "**Ought to Pass**" as amended by Committee Amendment "B" (H-705)

Report was read and accepted. The Bill read once. Committee Amendment "B" (H-705) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, February 22, 1996.

**Ought to Pass as Amended**

Representative REED from the Committee on **Taxation** on Bill "An Act to Exempt Goods Sold by Scouting Organizations from the Sales Tax" (H.P. 776) (L.D. 1073) reporting "**Ought to Pass**" as amended by Committee Amendment "B" (H-706)

Report was read and accepted. The Bill read once. Committee Amendment "B" (H-706) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, February 22, 1996.

**Ought to Pass as Amended**

Representative WHEELER from the Committee on **Criminal Justice** on Bill "An Act to Enhance Amusement Ride Safety" (H.P. 1256) (L.D. 1728) reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-713)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-713) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, February 22, 1996.

**Divided Report**

Majority Report of the Committee on **Banking and Insurance** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-707) on Bill "An Act to Ensure That Basic Health Care Needs of Women Are Covered in Insurance Policies" (H.P. 976) (L.D. 1385)

Signed:

Senators:

ABROMSON of Cumberland  
McCORMICK of Kennebec  
SMALL of Sagadahoc  
GATES of Rockport  
SAXL of Portland  
MAYO of Bath  
VIGUE of Winslow  
CHASE of China

Representatives:

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "B" (H-708) on same Bill.

Signed:

Representatives:

JONES of Pittsfield  
GUERRETTE of Pittston  
LUMBRA of Bangor

Was read.

Representative VIGUE of Winslow moved that the House accept the Majority "**Ought to Pass**" as amended by Committee Amendment "A" (H-707) Report.

On further motion of the same Representative, tabled pending his motion to accept the Majority "**Ought to Pass**" as amended by Committee Amendment "A" (H-707) Report and specially assigned for Thursday, February 22, 1996.

**CONSENT CALENDAR**

**First Day**

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

(H.P. 1205) (L.D. 1655) Bill "An Act to Conform the Maine Tax Laws for 1995 with the United States Internal Revenue Code" (EMERGENCY) Committee on **Taxation** reporting "**Ought to Pass**"

(H.P. 1263) (L.D. 1738) Bill "An Act to Require Prisoners to Pay Their Fair Share of Victim Restitution" (Governor's Bill) Committee on **Criminal Justice** reporting "**Ought to Pass**"

(H.P. 1187) (L.D. 1628) RESOLUTION, Proposing an Amendment to the Constitution of Maine Regarding Municipal Certification of Direct Initiative Petitions Committee on **Legal and Veterans Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-714)

(H.P. 1196) (L.D. 1646) Bill "An Act to Establish the Freeport Towne Square Mental Retardation Facility" Committee on **Human Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-709)

(H.P. 1225) (L.D. 1678) Resolve, to Authorize the Maine Technical College System to Transfer Interests in Real Property Committee on **Education and Cultural Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-710)

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, February 22, 1996 under the listing of Second Day.

**CONSENT CALENDAR**

**Second Day**

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

(H.P. 477) (L.D. 658) Bill "An Act Concerning Real Estate Trusts" (C. "A" H-704)

(H.P. 1241) (L.D. 1701) Bill "An Act to Reduce the Number of Legislative Confirmation Hearings" (Governor's Bill) (C. "A" H-699)

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

#### BILLS IN THE SECOND READING As Amended

Bill "An Act to Discourage the Spread of 'Crack' Cocaine" (H.P. 1038) (L.D. 1457) (C. "B" H-697)

Bill "An Act to Increase the Penalty for Criminal Restraint of a Young Child or a Dependent Person" (H.P. 1211) (L.D. 1661) (C. "A" H-700)

Bill "An Act to Provide Recovery for Motor Vehicle Damage to Forest Lands" (H.P. 1232) (L.D. 1685) (C. "A" H-701)

Bill "An Act to Enhance Fireworks Safety" (H.P. 1233) (L.D. 1693) (C. "A" H-702)

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

Bill "An Act to Provide a Tax Credit for the Rehabilitation of Historic Properties" (H.P. 715) (L.D. 972) (C. "B" H-703)

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

On motion of Representative CAMERON of Rumford was set aside.

On further motion of the same Representative, the House reconsidered its action whereby Committee Amendment "B" (H-703) was adopted.

The same Representative presented House Amendment "A" (H-715) to Committee Amendment "B" (H-703) which was read by the Clerk and adopted.

Committee Amendment "B" (H-703) as amended by House Amendment "A" (H-715) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "B" (H-703) as amended by House Amendment "A" (H-715) thereto and sent up for concurrence.

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

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

#### SENATE PAPERS

Bill "An Act to Promote Choice and Quality in Long-term Care" (S.P. 707) (L.D. 1806) (Governor's Bill)

Came from the Senate, referred to the Committee on Human Resources and Ordered Printed.

Was referred to the Committee on Human Resources in concurrence.

Bill "An Act to Amend the Charter of the Somerset Woods Trustees in Order to Qualify the Charter as a Charitable Corporation under Internal Revenue Service Rules" (S.P. 706) (L.D. 1805)

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 Grandfather Municipal Ordinances Regulating the Spreading of Sludge" (S.P. 705) (L.D. 1804)

Came from the Senate, referred to the Committee on Natural Resources and Ordered Printed.

Was referred to the Committee on Natural Resources in concurrence.

Bill "An Act Concerning the Number of Washington County Commissioners" (S.P. 703) (L.D. 1792)

Came from the Senate, referred to the Committee on State and Local Government and Ordered Printed.

Was referred to the Committee on State and Local Government in concurrence.

Bill "An Act to Extend the Electric Rate Stabilization Projects" (EMERGENCY) (S.P. 704) (L.D. 1793)

Came from the Senate, referred to the Committee on Utilities and Energy and Ordered Printed.

Was referred to the Committee on Utilities and Energy in concurrence.

#### UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Thursday, February 15, 1996, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

Resolve, Regarding Legislative Computer Information Systems (EMERGENCY) (H.P. 1226) (L.D. 1679)

(Committee on State and Local Government suggested)

TABLED - January 30, 1996 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Reference.

On motion of Representative JACQUES of Waterville, tabled pending reference and later today assigned.

SENATE DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "A" (S-418) - Minority (4) "Ought to Pass" as amended by Committee Amendment "B" (S-419) - Committee on Labor on Bill "An Act Concerning Preference to Maine Workers and Contractors" (S.P. 341) (L.D. 946)

- In Senate, Majority "Ought to Pass" as amended by Committee Amendment "A" (S-418) Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-418)

TABLED - February 8, 1996 by Representative HATCH of Skowhegan.

PENDING - Motion of same Representative to accept the Majority "Ought to Pass" as amended by Committee Amendment "A" (S-418) Report.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Joyce.

Representative JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I think the Majority Report of this bill is very unnecessary for three reasons.

The first thing it does is it requires the Bureau of General Services to create a policy encouraging the use of women-owned businesses and Maine-based subcontractors. The fact is that the current bid documents that we already have, have over 15 pages of policy and information relating to this subject. Not only does the state and federal government already encourage the use of these businesses, it tells you that you must use a certain percentage of your subcontract money on women-owned businesses or the contract can be cancelled.

The second reason is it requires general services to implement a policy of notifying contractors of potential bidding opportunities. There is currently already five private sector companies that do this including the Dodge Report, the Construction Summary, the Dunlap Report, the Construction Market Data Report and the Associated Construction Report. I don't see what the need is for having the state get involved in this.

Finally, the third reason is it requires general services to sponsor an annual education seminar on how to procure state contracts. I don't think this is necessary because I think it is already very clear on how to do this. For example, over at the DOT anybody can set up an account, have the plans and the bid packages sent directly to you and in the bid package it very clearly tells you how to fill out the forms and when and where to send them. For these three reasons, I don't think this bill is necessary.

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative Hatch.

Representative HATCH: Mr. Speaker, Men and Women of the House: As amended, this bill is a simple notification bill. The amendment is the document at this time. It helps businesses in Maine have a heads-up whenever there is a bid that is worth over \$100,000. In fact, everyone from the Association of General Contractors, Lane Construction, which is a business which is based outside the State of Maine, Department of Economic and Community Development and the Division of Purchases helped draft this amendment.

In committee all members of both parties from the other body voted in support. A vote for this bill as amended by Committee Amendment "A" is a vote for Maine businesses to have a better chance to compete for jobs put out to bid. The cost on this bill could be absorbed by the different departments and it would be put on computer systems and sent out to the local economic community developments so that local businesses would have a heads-up whenever there was a bid put out. That is about it.

Representative JOYCE of Biddeford requested a roll call on the motion to accept the Majority "Ought to Pass" as amended Report.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of members present and voting. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The pending question before the House is acceptance of the Majority "Ought to Pass" as amended Report. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 294

YEA - Ahearne, Benedikt, Berry, Bouffard, Brennan, Bunker, Cameron, Carr, Chartrand, Chase, Chizmar, Clark, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gould, Green, Hatch, Heeschen, Hichborn, Jacques, Jones, K.; Joseph, Keane, Kerr, Kilkelly, Kontos, LaFountain, Lemaire, Lemke, Luther, Martin, Mayo, Mitchell EH; Mitchell JE; Nadeau, O'Gara, O'Neal, Paul, Pendleton, Poulin, Povich, Richard, Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Thompson, Townsend, Treat, Tripp, Tuttle, Tyler, Vigue, Vollenik, Watson, Winn, The Speaker.

NAY - Aikman, Ault, Barth, Bigl, Buck, Carleton, Chick, Clukey, Cross, Damren, Dexter, Donnelly, Dunn, Farnum, Gieringer, Gooley, Greenlaw, Guerrette, Hartnett, Heino, Jones, S.; Joy, Joyce, Joyner, Kneeland, Labrecque, Lane, Layton, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Marshall, Marvin, McAlevey, McElroy, Meres, Murphy, Ott, Peavey, Perkins, Pinkham, Plowman, Reed, G.; Reed, W.; Rice, Robichaud, Savage, Simoneau, Spear, Stedman, Strout, Taylor, True, Tufts, Underwood, Waterhouse, Wheeler, Whitcomb, Winglass, Winsor.

ABSENT - Adams, Bailey, Birney, Campbell, Cloutier, Daggett, Johnson, Madore, Morrison, Nass, Nickerson, Poirier, Pouliot, Stone, Truman.

Yes, 72; No, 64; Absent, 15; Excused, 0.

72 having voted in the affirmative and 64 voted in the negative, with 15 being absent, the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once, Committee Amendment "A" (S-418) was read by the Clerk and adopted. The Bill was assigned for second reading Thursday, February 22, 1996.

SENATE DIVIDED REPORT - Majority (12) "Ought to Pass" as amended by Committee Amendment "A" (S-420) - Minority (1) "Ought Not to Pass" - Committee on Labor on Resolve, to Create an Advisory Committee to Assist in the Funding of State Employee Workers' Compensation Claims (S.P. 379) (L.D. 1056) - In Senate, Majority "Ought to Pass" as amended Report read and accepted and the Resolve passed to be engrossed as amended by Committee Amendment "A" (S-420)

TABLED - February 8, 1996 by Representative HATCH of Skowhegan.

PENDING - Motion of same Representative to accept the Majority "Ought to Pass" as amended Report.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Pendleton.

Representative PENDLETON: Mr. Speaker, Ladies and Gentlemen of the House: As you have probably noticed, this is a 12 to 1 report. I am the one.

First thing I want to bring out to you in this particular bill is, as we have it in our calendar, it says create an advisory committee to assist in the funding of state employee workers' compensation claims. The actual amendment that you have in front of you (S-420) that changes the title to Resolve, to Create an Advisory Committee to Assist in the

Management of State Employees Workers' Compensation Costs.

When this bill originally came up back during the first session of the 117th Legislature, it had merit prior to us passing the budget last July. Prior to that time, we had an unfunded liability on workers' comp cases of approximately \$1.3 million dollars. As of the end of January using the funds established by last year's budget, which allocates to each department the actuarial cost of workers' comp claims, that amount of money has been dropped down to about \$700,000.

As of the end of January, we had 502 people out on workers' comp. Of that 502 people, 41 percent were cases that were 10 years old or older. There was approximately 28 percent that were five to nine years and 100 cases one to four years and 40 cases one year or less. Our health department has been working very diligently on this since last July. They have the management expertise and the ability to deal with this on their own without having all these outside people come in and interrupt their work. This is quite costly for the state. They estimate their total cost for the month of January at some \$644,000. This would be money well spent in another manner and we should be trying to resolve these workers' comp cases, not drag them out.

This has all come about because for years the departments were never funded, any extra money to deal with their workers' comp. It was they paid for them as they went along and in most cases if somebody got hurt, they continued on the payroll and stayed there until such time as they wanted to retire or in some cases the department came up with enough money to resolve their workers' comp case. We have a management team that is reviewing these people now. We have case managers that deal with workers' comp cases. We have training that has been going on, sponsored by the health department, since 1992.

Each department every month now gets a notice as to those people that are credited to their department that are out on worker's comp and they are trying to manage and lower the cost. This study committee or advisory group is not a necessary thing. For that manner, I would like to urge you to vote against this bill and vote "Ought Not to Pass." Mr. Speaker, I request a roll call. Thank you.

Representative PENDLETON of Scarborough requested a roll call on the motion to accept the Majority "Ought to Pass" as amended Report.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of members present and voting. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The Chair recognizes the Representative from Skowhegan, Representative Hatch.

Representative HATCH: Mr. Speaker, Men and Women of the House: The amendment on this bill is the bill. The fiscal note on this bill would be absorbed within existing accounts. It is to set up an advisory committee to assist in the management of the state employees workers' comp costs. It will allow this committee to meet by September 15 and at that meeting the Department of Administration and Financial Services and Bureau of Human Services would

be required to report on the programs that the state has in place and the steps that had been taken to improve the state's management of workers' compensation costs.

The advisory committee must report to the Governor and the legislative committees having jurisdiction over labor matters and state and local government matters by February 1, 1997. I realize that the human services division has been looking at ways that we could catch up with our workers' comp costs. The problem being that it seems to be taking an awful long time. This advisory committee would be an oversight committee. I believe it would help to speed up the service to those people receiving workers' comp. We have a lot of cases backed up. I also believe that this is a timely issue that needs to be dealt with now. I would ask for your support on this particular bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from China, Representative Chase.

Representative CHASE: Mr. Speaker, Men and Women of the House: The reason I am supporting this bill is stated in the first paragraph of it. The bill is to study the manner in which the cost of workers' comp for state employees is managed. The truth is we have not been managing the cost of workers' compensation for our own employees. The State of Maine as an employer has enormous workers' comp costs. The truth is we haven't managed them. What we have done is ask the private sector to manage its workers' comp costs. We have asked the employers in the private sector to engage in safety programs in order to lower the costs of workers' compensation. Here in the State of Maine, as the good Representative from Scarborough, Representative Pendleton told you, we don't budget for workers' compensation costs.

What we have done when a worker has been injured is simply to take the budgeted salary costs for that worker and hope to heck that it covers the time off for that worker and health costs. To spite our best attempts or hopes, we have had increasing millions of dollars of unpaid workers' comp liability in the State of Maine. We are making an effort to lower that amount. We haven't been doing enough. I firmly believe that as an employer if we are going to ask private sector employers in the State of Maine to get their comp act together, we ought to do the same thing. If that means another study commission or another task force, I say fine. Let's do it. Let's look at how we are managing those costs and whether we do need safety programs or not. Let's get on with it and lower our own comp costs. Thank you.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Pendleton.

Representative PENDLETON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to correct what the prior speaker just said. We now have a workers' comp fund, which was established by our budget in 1995, which assesses each department in actuarial costs of what their worker's comp is. By using this fund, they have been able to reduce the back log that they had, but they have only been able to do this in the last seven months since we have had a budget. That is part of the reason I feel with this new fund that they have to work with, they have the administration, they have the people. They have hired the outside help that they need to advise



them. They are making substantial gains on our back workers' comp cases.

If we needed something like this advisory, it should have been prior to this fund being established, not afterward. They have already got it established. They already have their reporting requirements for the departments established. They have everything going. We would just be in there interfering with them. That is the reason why I say this is not needed. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Majority "Ought to Pass" Report. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 295

YEA - Ahearne, Benedikt, Berry, Birney, Bouffard, Brennan, Bunker, Cameron, Carr, Chartrand, Chase, Chick, Chizmar, Clark, Clukey, Davidson, Desmond, DiPietro, Dore, Driscoll, Dunn, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gieringer, Gooley, Gould, Green, Guerrette, Hartnett, Hatch, Heesch, Hichborn, Jacques, Jones, K.; Joseph, Joy, Joyce, Joyner, Keane, Kerr, Kilkelly, LaFountain, Lemaire, Lemke, Lemont, Libby JD; Lindahl, Lovett, Luther, Madore, Martin, Marvin, Mayo, McAlevey, Meres, Mitchell EH; Mitchell JE; Murphy, Nadeau, O'Gara, O'Neal, Ott, Paul, Peavey, Pinkham, Plowman, Poulin, Povich, Reed, G.; Reed, W.; Richard, Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Stedman, Stevens, Strout, Taylor, Thompson, Townsend, Treat, Tripp, True, Tuttle, Tyler, Underwood, Vigue, Volenik, Watson, Wheeler, Whitcomb, Winglass, Winn, Winsor, The Speaker.

NAY - Aikman, Ault, Barth, Bigl, Buck, Carleton, Cross, Damren, Dexter, Donnelly, Greenlaw, Heino, Jones, S.; Kneeland, Labrecque, Lane, Layton, Libby JL; Look, Lumbra, Marshall, McElroy, Pendleton, Perkins, Rice, Robichaud, Savage, Spear, Tufts, Waterhouse.

ABSENT - Adams, Bailey, Campbell, Cloutier, Daggett, Johnson, Kontos, Morrison, Nass, Nickerson, Poirier, Pouliot, Stone, Truman.

Yes, 107; No, 30; Absent, 14; Excused, 0.

107 having voted in the affirmative and 30 voted in the negative, with 14 being absent, the Majority "Ought to Pass" as amended Report was accepted.

The Resolve was read once. Committee Amendment "A" (S-420) was read by the Clerk and adopted. The Resolve was assigned for second reading Thursday, February 22, 1996.

#### TABLED AND TODAY ASSIGNED

The Chair laid before the House the following items which were Tabled and Today Assigned:

Expression of Legislative Sentiment recognizing Bob Weagle, of Pownal, on his retirement (HLS 883)

TABLED - February 15, 1996 by Representative CARLETON of Wells.

PENDING - Passage.

Subsequently, was passed and sent up for concurrence.

Resolve, to Establish a Tuition Rate for the Town of Dennysville and to Review the Provision of Education Services in the Unorganized Territory (H.P. 1297) (L.D. 1780)

TABLED - February 15, 1996 by Representative AULT of Wayne.

PENDING - Passage to be Engrossed.

On motion of Representative JACQUES of Waterville, tabled pending passage to be engrossed and later today assigned.

On motion of Representative JOY of Crystal, the House adjourned at 12:00 p.m., until 10:00 a.m., Thursday, February 22, 1996.