

# 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  
16th Legislative Day  
Thursday, February 22, 1996

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

Prayer by Father Robert Vaillancourt, Holy Family Parish, Old Town.

Physician for the day, Robert J. Lodato, M.D., Dexter.

The Journal of Tuesday, February 20, 1996 was read and approved.

**SENATE PAPERS**

The following Communication: (H.C. 341)  
Maine State Senate  
State House Station 3  
Augusta, Maine 04333

February 20, 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, upon the recommendation of the Joint Standing Committee on Labor, Grover B. MacLaughlin of Orono for reappointment as a member of the Maine State Retirement System Board of Trustees.

Sincerely,

S/May M. Ross

Secretary of the Senate

Was read and ordered placed on file.

**Ought to Pass as Amended**

Report of the Committee on Taxation reporting **"Ought to Pass"** as amended by Committee Amendment "B" (S-427) on Bill "An Act to Clarify the Sales Tax Law Applicable to Packaging" (S.P. 207) (L.D. 550)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "B" (S-427).

Report was read and accepted. The Bill read once. Committee Amendment "B" (S-427) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, February 27, 1996.

**Ought to Pass as Amended**

Report of the Committee on Taxation reporting **"Ought to Pass"** as amended by Committee Amendment "B" (S-428) on Bill "An Act to Reestablish the Tax Credit for Intrastate Airlines" (EMERGENCY) (S.P. 245) (L.D. 642)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "B" (S-428).

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Nadeau.

Representative NADEAU: Mr. Speaker, Men and Women of the House: I would like to ask the Chairman of the Taxation Committee a question, if I might.

The SPEAKER: The Representative may proceed.

Representative NADEAU: Thank you Mr. Speaker. The question Representative Reed would be, is this the so-called Bar Harbor airlines fiasco reincarnated?

The SPEAKER: The Representative from Saco, Representative Nadeau has posed a question through the Chair to the Representative from Falmouth, Representative Reed. The Chair recognizes that Representative.

Representative REED: Mr. Speaker, Men and Women of the House: In an attempt to respond to the question which was unanticipated, I believe that the appropriate answer is no. This deals with an airline that is attempting to provide service in Aroostook County after service was stopped there. There has been an attempt to reestablish an airline service. This credit is not likely to be utilized, but it was heard last session and carried over. The committee felt that it was appropriate to reestablish. It does not deal with the former carrier that you mentioned.

Report was read and accepted. The Bill read once. Committee Amendment "B" (S-428) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, February 27, 1996.

**Divided Report**

Majority Report of the Committee on Labor reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-424) on 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)

Signed:

Senators:

MILLS of Somerset  
RAND of Cumberland  
HATCH of Skowhegan  
CHASE of China  
LEMAIRE of Lewiston  
SAMSON of Jay  
TUTTLE of Sanford

Representatives:

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

Signed:

Senator:

Representatives:

BEGLEY of Lincoln  
JOY of Crystal  
JOYCE of Biddeford  
PENDLETON of Scarborough  
STEDMAN of Hartland  
WINSOR of Norway

Came from the Senate with the Reports read and the Bill and all accompanying papers indefinitely postponed.

Was read.

Representative HATCH of Skowhegan moved that the House accept the Majority **"Ought to Pass"** as amended Report.

On further motion of the same Representative, tabled pending her motion to accept the Majority **"Ought to Pass"** as amended Report and specially assigned for Tuesday, February 27, 1996.

**PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE**

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

**Agriculture, Conservation and Forestry**

Bill "An Act to Increase the Reimbursement Levels for Forest Fire Suppression Costs" (H.P. 1321) (L.D. 1808) (Presented by Representative CARR of

Hermon) (Cosponsored by Representative TUTTLE of Sanford and Representatives: BERRY of Livermore, CLARK of Millinocket, CROSS of Dover-Foxcroft, HICHBORN of Lagrange, POVICH of Ellsworth, STROUT of Corinth, Senators: CIANCHETTE of Somerset, FERGUSON of Oxford) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

#### Labor

Bill "Act to Exclude Services Provided by Direct Sellers from the Definition of Employment for Purposes of Unemployment Compensation" (H.P. 1320) (L.D. 1807) (Presented by Representative JOY of Crystal) (Cosponsored by Senator BEGLEY of Lincoln and Representatives: HATCH of Skowhegan, STEDMAN of Hartland, TUTTLE of Sanford) (Governor's Bill)

By unanimous consent, L.D. 1808 and L.D. 1807, having been acted upon were ordered sent forthwith.

#### ORDERS

On motion of Representative HICHBORN of Lagrange, the following Order: (H.O. 43)

ORDERED, that Representative Elizabeth H. Mitchell of Vassalboro be excused February 8 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Hugh A. Morrison of Bangor be excused February 20 to 22 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Theodore M. Poirier of Saco be excused February 20 to 22 for legislative business.

Was read and passed.

#### REPORTS OF COMMITTEES

##### Refer to the Committee on Taxation

Representative DEXTER from the Committee on Natural Resources on Bill "An Act to Support Abatement of Uncontrolled Tire Stockpiles" (H.P. 1298) (L.D. 1781) reporting that it be referred to the Committee on Taxation.

Report was read and accepted and the Bill referred to the Committee on Taxation and sent up for concurrence. Ordered sent forthwith.

##### Ought to Pass as Amended

Representative DAGGETT from the Committee on State and Local Government on Resolve, Authorizing the Sale by the State of a Certain Parcel of Land to Joseph Squeglia (H.P. 1254) (L.D. 1723) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-717)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-717) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, February 27, 1996.

##### Divided Report

Majority Report of the Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-711) on Bill "An Act to Implement the Recommendations of the Study Commission on Property Rights and the Public Health, Safety and Welfare Establishing a Land Use Mediation Program and

Providing for Further Review of Rules" (H.P. 1188) (L.D. 1629)

Signed:

Senators:

MILLS of Somerset  
PENDEXTER of Cumberland  
FAIRCLOTH of Penobscot  
TREAT of Gardiner  
LEMKE of Westbrook  
JONES of Bar Harbor  
LaFOUNTAIN of Biddeford  
WATSON of Farmingdale  
PLOWMAN of Hampden  
HARTNETT of Freeport  
MADORE of Augusta  
NASS of Acton

Representatives:

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

Signed:

Representative:

RICHARDSON of Portland

Was read.

On motion of Representative TREAT of Gardiner, the Majority "Ought to Pass" as amended Report was accepted.

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

Representative RICHARDSON: Mr. Speaker, Men and Women of the House: When this Legislature and the Judiciary Committee sent this very serious issue to the task force, I had absolutely no idea how such a task force could produce a compromise in such a hard felt opinion on both sides of the issue. It was a fundamental issue. That task force would have to be Solomon himself to craft a compromise in that area. Although I am on the "Ought Not to Pass" Report on this, I say with a lot of admiration and deep respect that they crafted such a compromise. The compromise is brilliant and it is before you today. Like Solomon, they took this issue and they worked it and they came forward with a compromise that those who support it can support it in very good conscience, no matter what the point of view.

I want to place on the record though, one question or one comment. It is this, in my wallet I have a dollar bill. That dollar bill is clearly mine. It is my property. No one would question that. I hold that dollar bill, though subject to rules that this body adopts in laws. I hold it subject to a trust that the community has. Whatever our property is, we hold it in some small sense in trust from the community. If the dollar bill is seized from me unfairly or unreasonably or is modified in some dramatic way, I have adequate redress. It is guaranteed in our constitution. It is one of our important and fundamental rights. It is my dollar bill, but it is mine in trust. That is a constitutional right. It is on a parity with other constitutional rights. The freedom of speech, which we are engaging in now and many others, they are also held in some sense in trust of the community. The freedom of speech does not allow me to say, "fire," in a crowded theater.

The compromise, like Solomon, was not a cutting of the baby in half arbitrarily. It was an awe inspiring surgical separation. What I would suggest to you is that it raises one first amendment right a bit above the others. There are two provisions which are encompassed in the title before you under (6-3) in our calendar. Two provisions of a different way of looking at rights. The Attorney General will

review mediation for our local communities and eminently reasonable, but within my view have in some sense raised one of our constitutional rights just a bit above the other.

For myself, I prefer the parity of constitutional rights and the notion of some sense of trust in community to the surgical precision of Solomon. The surgical precision of Solomon has serious consequences for the baby. I tend to prefer our constitution.

The Bill was read once. Committee Amendment "A" (H-711) was read by the Clerk and adopted. The Bill was assigned for second reading Tuesday, February 27, 1996.

#### Divided Report

Majority Report of the Committee on Criminal Justice reporting "Ought to Pass" as amended by Committee Amendment "A" (H-712) on Bill "An Act to Include Sexual Contact in the Definition of Prostitution" (H.P. 1216) (L.D. 1666)

Signed:

Senators:

BENOIT of Franklin  
HALL of Piscataquis  
BUNKER of Kossuth  
Township  
GOOLEY of Farmington  
PEAVEY of Woolwich  
McALEVEY of Waterboro  
CLARK of Millinocket  
CLUKEY of Houlton  
THOMPSON of Naples  
WHEELER of Bridgewater  
REED of Dexter

Representatives:

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

Signed:

Senator:

O'DEA of Penobscot

Representative:

JOHNSON of South Portland

Was read.

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

On further motion of the same Representative, tabled pending his motion to accept the Majority "Ought to Pass" as amended Report and specially assigned for Tuesday, February 27, 1996.

#### CONSENT CALENDAR

##### First Day

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

(S.P. 651) (L.D. 1703) Bill "An Act to Confirm That Nonprofit Health Care Providers May Achieve Cost Savings on Professional and General Liability Coverage" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (S-425)

(S.P. 659) (L.D. 1719) Bill "An Act to Correct Omissions in the Productivity Realization Task Force Legislation Relating to the State Soil and Water Conservation Commission and the Animal Welfare Board" Committee on Agriculture, Conservation and Forestry reporting "Ought to Pass" as amended by Committee Amendment "A" (S-426)

(H.P. 1275) (L.D. 1751) Resolve, to Authorize the Exchange of a Parcel of Land Owned by the State with

One Owned by Luke Bolduc Committee on State and Local Government reporting "Ought to Pass"

(H.P. 1200) (L.D. 1650) Bill "An Act Enabling the Maine Employers' Mutual Insurance Company to Better Serve the Needs of Small Business" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (H-719)

(H.P. 1215) (L.D. 1665) Bill "An Act to Amend the Maine Insurance Code with Respect to Domestic Violence" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (H-720)

(H.P. 1231) (L.D. 1684) Bill "An Act to Consolidate Insurer Billing Procedures and to Streamline the Licensing Process for Reinsurance Intermediaries" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (H-718)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, February 27, 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. 1205) (L.D. 1655) Bill "An Act to Conform the Maine Tax Laws for 1995 with the United States Internal Revenue Code" (EMERGENCY)

(H.P. 1263) (L.D. 1738) Bill "An Act to Require Prisoners to Pay Their Fair Share of Victim Restitution" (Governor's Bill)

(H.P. 1187) (L.D. 1628) RESOLUTION, Proposing an Amendment to the Constitution of Maine Regarding Municipal Certification of Direct Initiative Petitions (C. "A" H-714)

(H.P. 1196) (L.D. 1646) Bill "An Act to Establish the Freeport Towne Square Mental Retardation Facility" (C. "A" H-709)

(H.P. 1225) (L.D. 1678) Resolve, to Authorize the Maine Technical College System to Transfer Interests in Real Property (C. "A" H-710)

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

#### BILLS IN THE SECOND READING

##### As Amended

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) (C. "B" H-705)

Bill "An Act Concerning Preference to Maine Workers and Contractors" (S.P. 341) (L.D. 946) (C. "A" S-418)

Resolve, to Create an Advisory Committee to Assist in the Funding of State Employee Workers' Compensation Claims (S.P. 379) (L.D. 1056) (C. "A" S-420)

Bill "An Act to Exempt Goods Sold by Scouting Organizations from the Sales Tax" (H.P. 776) (L.D. 1073) (C. "B" H-706)

Bill "An Act to Enhance Amusement Ride Safety" (H.P. 1256) (L.D. 1728) (C. "A" H-713)

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

### ENACTORS

#### Emergency Measure

An Act to Amend the Charter of the East Pittston Water District (H.P. 1173) (L.D. 1605) (C. "A" H-692)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 117 voted in favor of the same and 1 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### Emergency Measure

An Act to Establish the Administrative Operating Budget for the Maine State Retirement System for the Fiscal Year Ending June 30, 1997 (H.P. 1193) (L.D. 1637)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 112 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### Emergency Measure

An Act to Clarify the Laws Regarding the Issuance of a Credit Card to Benefit the Land for Maine's Future Fund (H.P. 1213) (L.D. 1663) (Governor's Bill) (C. "A" H-688)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

Representative JACQUES of Waterville requested a roll call on passage to be enacted.

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 Enactment. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 296

YEA - Adams, Ahearne, Ault, Barth, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Cameron, Campbell, Carleton, Carr, Chartrand, Chase, Chick, Chizmar, Clark, Clukey, Damren, Davidson, Desmond, Dexter, DiPietro, Dore, Driscoll, Dunn, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gieringer, Gooley, Gould, Green, Greenlaw, Guerrette, Hatch, Heeschen, Hichborn, Jacques, Jones, K.; Joseph, Joyner, Keane, Kerr, Kilkelly, Kontos, LaFountain, Lemaire, Lemont, Libby JL; Lindahl, Madore, Martin, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Murphy, Nadeau, O'Gara, O'Neal, Ott, Paul, Peavey, Pendleton, Plowman, Poulin, Pouliot, Povich, Reed, G.; Rice, Richard, Richardson, Ricker,

Rosebush, Rowe, Samson, Savage, Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stevens, Stone, Strout, Taylor, Thompson, Townsend, Treat, Tripp, True, Tufts, Tuttle, Tyler, Vigue, Volenik, Watson, Wheeler, Winglass, Winn, The Speaker.

NAY - Aikman, Birney, Buck, Cross, Donnelly, Gerry, Hartnett, Heino, Jones, S.; Joy, Joyce, Labrecque, Lane, Layton, Lemke, Libby JD; Look, Lovett, Marshall, Marvin, Mayo, Perkins, Pinkham, Reed, W.; Robichaud, Stedman, Underwood, Waterhouse, Winsor.

ABSENT - Bailey, Cloutier, Daggett, Johnson, Kneeland, Lumbra, Luther, Morrison, Nass, Nickerson, Poirier, Saxl, J.; Truman, Whitcomb.

Yes, 108; No, 29; Absent, 14; Excused, 0.

108 having voted in the affirmative and 29 voted in the negative, with 14 being absent, a two-thirds vote of all the members elected to the House being necessary, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Amend the Charter of Milbridge Water District (H.P. 1168) (L.D. 1600) (C. "A" H-690)

An Act to Repeal the Requirement that Disbursement Warrants Receive an Affirmative Vote by Municipal Officers (S.P. 608) (L.D. 1612) (C. "A" S-421)

An Act to Amend the Piscataquis County Budget Process (S.P. 611) (L.D. 1615) (C. "A" S-423)

An Act to Repeal an Insurance Law Relating to Motor Vehicle Damage Appraisal (H.P. 1207) (L.D. 1657) (C. "A" H-693)

An Act Pertaining to the Northern New England Passenger Rail Authority (H.P. 1228) (L.D. 1681)

An Act to Amend the Laws Regarding Drag Limits in South Bay (H.P. 1235) (L.D. 1695)

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

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

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

#### SENATE PAPERS

The following Joint Order: (S.P. 708)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, February 27, 1996, at 10:00 o'clock in the morning.

Came from the Senate, read and passed.

Was read and passed in concurrence.

#### UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Tuesday, February 20, 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 - February 20, 1996 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Reference.

On motion of Representative JACQUES of Waterville, tabled pending reference and specially assigned for Tuesday, February 27, 1996.

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

TABLED - February 20, 1996 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Passage to be Engrossed.

Representative AULT of Wayne presented House Amendment "A" (H-716) which was read by the Clerk and adopted.

The Resolve was passed to be engrossed as amended by House Amendment "A" (H-716) and sent up for concurrence.

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#### **TABLED AND TODAY ASSIGNED**

The Chair laid before the House the following item which was Tabled and Today Assigned:

HOUSE DIVIDED REPORT - Majority (8) **"Ought to Pass"** as amended by Committee Amendment "A" (H-707) - Minority (3) **"Ought to Pass"** as amended by Committee Amendment "B" (H-708) - Committee on **Banking and Insurance** on Bill "An Act to Ensure That Basic Health Care Needs of Women Are Covered in Insurance Policies" (H.P. 976) (L.D. 1385)

TABLED - February 20, 1996 by Representative VIGUE of Winslow.

PENDING - Motion of same Representative to accept the Majority **"Ought to Pass"** as amended by Committee Amendment "A" (H-707) Report.

On motion of Representative VIGUE of Winslow, tabled pending his motion to accept the Majority **"Ought to Pass"** as amended by Committee Amendment "A" (H-707) Report and specially assigned for Tuesday, February 27, 1996.

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

Representative ADAMS: Mr. Speaker, Ladies and Gentlemen of the House: On the record, please. Regarding Roll Call Number 294 conducted in the House of Representatives on the February 20, 1996 for L.D. 946, I would wish the record to clearly reflect that if I had been in the chamber, I would in fact have voted yea.

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On motion of Representative STROUT of Corinth, the House adjourned at 11:35 a.m., pursuant to Joint Order (S.P. 708).