

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
18th Legislative Day
Thursday, February 29, 1996

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

Prayer by Reverend Sally P. Poland, West Scarborough United Methodist Church.

Physician for the day, Boyd R. Buser, D.O., Kennebunkport, accompanied by George Pasquarello, D.O., Old Orchard Beach.

The Journal of Tuesday, February 27, 1996 was read and approved.

SENATE PAPERS
Non-Concurrent Matter

Bill "An Act to Require Notification to the Landowner When Land Is Being Considered for Placement in a Resource Protection Zone" (H.P. 609) (L.D. 819) which was passed to be engrossed as amended by Committee Amendment "B" (H-685) in the House on February 6, 1996.

Came from the Senate passed to be engrossed as amended by Committee Amendment "B" (H-685) as amended by Senate Amendment "A" (S-436) thereto in non-concurrence.

The House voted to Recede and Concur.

COMMUNICATIONS

The following Communication: (H.C. 342)

STATE OF MAINE

ONE HUNDRED AND SEVENTEENTH LEGISLATURE
COMMITTEE ON BANKING AND INSURANCE

February 26, 1996

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

Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Banking and Insurance has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1755

An Act Pertaining to
Employee Benefit Plans
of Employee Leasing
Companies

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. I. Joel Abromson S/Rep. Marc J. Vigue
Senate Chair House Chair

Was read and ordered placed on file.

The following Communication: (H.C. 343)

STATE OF MAINE

ONE HUNDRED AND SEVENTEENTH LEGISLATURE
COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT

February 26, 1996

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

Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Business and Economic Development has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1148

An Act to Amend the
Social Work Practice
Licensing Laws

L.D. 1654

An Act to Correct the
Law Relating to Small
Auctioneers

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Philip Harriman S/Rep. G. Steven Rowe
Senate Chair House Chair

Was read and ordered placed on file.

The following Communication: (H.C. 344)

STATE OF MAINE

ONE HUNDRED AND SEVENTEENTH LEGISLATURE
COMMITTEE ON HUMAN RESOURCES

February 26, 1996

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

Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Human Resources has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1604

An Act Requiring the
Department of Human
Services to Reimburse
Nursing Home Facilities
from Initial Medicaid
Eligibility

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Joan M. Pendexter
Senate Chair
S/Rep. Michael J. Fitzpatrick
House Chair

Was read and ordered placed on file.

The following Communication: (H.C. 345)

STATE OF MAINE

ONE HUNDRED AND SEVENTEENTH LEGISLATURE
COMMITTEE ON INLAND FISHERIES AND WILDLIFE

February 26, 1996

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

Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Inland Fisheries and Wildlife has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 572

An Act to Transfer
Regulatory Control of
Whitewater Rafting to
the Department of

L.D. 1737

Conservation's Bureau of
Parks and Recreation
An Act to Improve the
Ability of Potential
Users of Private Land to
Seek Permission from
Landowners

We have also notified the sponsors and cosponsors of
each bill listed of the Committee's action.

Sincerely,

S/Sen. Stephen E. Hall S/Rep. Ernest C. Greenlaw
Senate Chair House Chair
Was read and ordered placed on file.

The following Communication: (H.C. 346)

**STATE OF MAINE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
COMMITTEE ON JUDICIARY**

February 26, 1996

Honorable Jeffrey H. Butland, President of the Senate
Honorable Dan A. Gwadosky, Speaker of the House
117th Maine Legislature
State House
Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to
notify you that the Joint Standing Committee on
Judiciary has voted unanimously to report the
following bills out "Ought Not to Pass":

| | |
|-----------|---|
| L.D. 423 | An Act to Establish a Limit on Noneconomic Damages in Medical Malpractice Actions |
| L.D. 526 | An Act to Amend the Statute of Limitations for Health Care Providers and Health Care Practitioners to Include a Discovery Rule |
| L.D. 636 | An Act to Modify Joint and Several Liability in Medical Malpractice Actions |
| L.D. 1517 | An Act to Create the Sunshine in Litigation Act |

We have also notified the sponsors and cosponsors of
each bill listed of the Committee's action.

Sincerely,

S/Sen. S. Peter Mills
Senate Chair
S/Rep. Sharon Anglin Treat
House Chair

Was read and ordered placed on file.

The following Communication: (H.C. 347)

**STATE OF MAINE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

February 26, 1996

Honorable Jeffrey H. Butland, President of the Senate
Honorable Dan A. Gwadosky, Speaker of the House
117th Maine Legislature
State House
Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to
notify you that the Joint Standing Committee on Legal

and Veterans Affairs has voted unanimously to report
the following bill out "Ought Not to Pass":

| | |
|-----------|--|
| L.D. 1591 | An Act to Implement the Productivity Plan of the Department of Agriculture, Food and Rural Resources Relating to Harness Racing |
|-----------|--|

We have also notified the sponsor and cosponsors of
the Committee's action.

Sincerely,

S/Sen. Norman K. Ferguson, Jr.
Senate Chair
S/Rep. Harry G. True
House Chair

Was read and ordered placed on file.

The following Communication: (H.C. 348)

**STATE OF MAINE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
COMMITTEE ON MARINE RESOURCES**

February 26, 1996

Honorable Jeffrey H. Butland, President of the Senate
Honorable Dan A. Gwadosky, Speaker of the House
117th Maine Legislature
State House
Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to
notify you that the Joint Standing Committee on
Marine Resources has voted unanimously to report the
following bills out "Ought Not to Pass":

| | |
|-----------|---|
| L.D. 1649 | An Act to Increase Penalties in the Sea Urchin Fishery |
| L.D. 1670 | An Act to Permit Retired Marine Patrol Officers to Enter into Commercial Fishing |

We have also notified the sponsors and cosponsors of
each bill listed of the Committee's action.

Sincerely,

S/Sen. Jeffrey H. Butland S/Rep. Theone F. Look
Senate Chair House Chair
Was read and ordered placed on file.

The following Communication: (H.C. 349)

**STATE OF MAINE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
COMMITTEE ON NATURAL RESOURCES**

February 26, 1996

Honorable Jeffrey H. Butland, President of the Senate
Honorable Dan A. Gwadosky, Speaker of the House
117th Maine Legislature
State House
Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to
notify you that the Joint Standing Committee on
Natural Resources has voted unanimously to report the
following bill out "Ought Not to Pass":

| | |
|-----------|--|
| L.D. 1042 | An Act to Amend the Surface Water Ambient Toxics Monitoring Program |
|-----------|--|

We have also notified the sponsor and cosponsors of
the Committee's action.

Sincerely,

S/Sen. Willis A. Lord
Senate Chair

Was read and ordered placed on file.

S/Rep. Edward L. Dexter
House Chair

S/Sen. Albert G. Stevens, Jr.
Senate Chair

S/Rep. Donald A. Strout
House Chair

Was read and ordered placed on file.

The following Communication: (H.C. 350)

**STATE OF MAINE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
COMMITTEE ON TAXATION**

February 26, 1996

Honorable Jeffrey H. Butland, President of the Senate
Honorable Dan A. Gwadosky, Speaker of the House
117th Maine Legislature
State House
Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Taxation has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 490 An Act to Establish a State Income Tax Credit for Health Insurance Premiums

L.D. 835 An Act to Encourage the Use of Maine Ports by Allowing a State Income Tax Credit on Taxes Assessed by the Federal Government on Shippers

L.D. 1613 An Act to Provide Sales Tax Exemption for Generators Leased for Dairy Equipment

L.D. 1636 An Act to Amend the Laws Regarding the Taxation of Subdivisions

L.D. 1748 An Act to Make Pension Payments Exempt from State Taxes

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. W. John Hathaway S/Rep. Gary W. Reed
Senate Chair House Chair

Was read and ordered placed on file.

The following Communication: (H.C. 351)

**STATE OF MAINE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
COMMITTEE ON TRANSPORTATION**

February 26, 1996

Honorable Jeffrey H. Butland, President of the Senate
Honorable Dan A. Gwadosky, Speaker of the House
117th Maine Legislature
State House
Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Transportation has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1676 An Act to Implement the Recommendations of the Registration Improvement Committee

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

The following Communication: (H.C. 352)

**STATE OF MAINE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
COMMITTEE ON UTILITIES AND ENERGY**

February 26, 1996

Honorable Jeffrey H. Butland, President of the Senate
Honorable Dan A. Gwadosky, Speaker of the House
117th Maine Legislature
State House
Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Utilities and Energy has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1565 An Act to Create the Prospect Water Authority

L.D. 1752 An Act to Merge the Charter of the Jackman Water and Sewer Districts

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. David L. Carpenter S/Rep. Carol A. Kontos
Senate Chair House Chair

Was read and ordered placed on file.

The following Communication: (H.C. 353)

**STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0001**

February 27, 1996

The Honorable Jeffrey H. Butland
President, Maine State Senate
#3 State House Station
Augusta, Maine 04333
The Honorable Dan A. Gwadosky
Speaker, Maine House of Representatives
#2 State House Station
Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

This letter is to inform the Legislature that I have accepted and will implement the recommendations of the Productivity Realization Task Force regarding the Bureau of Information Services' addition to the Department of Administrative and Financial Services' productivity plan.

These productivity enhancements reduce All Other costs and result in the elimination of 10 positions, for a biennial net savings of \$896,394 to the General Fund. Specifically, these savings are a result of renegotiating contracts, eliminating underused and outdated hardware and software (along with their accompanying service contracts), restructuring the organization of DDP Computer Operations, and consolidating storeroom operations within the Bureau.

Accordingly, this addition to Department of Administrative and Financial Services' original productivity plan will result in an even more streamlined and efficient organization. Please

contact my office or Commissioner Waldron with any questions you may have about this proposal.

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

Was read and ordered placed on file.

The following Communication: (H.C. 354)

STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0001

February 27, 1996

The Honorable Jeffrey H. Butland
President, Maine State Senate
#3 State House Station
Augusta, Maine 04333
The Honorable Dan A. Gwadosky
Speaker, Maine House of Representatives
#2 State House Station
Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

This letter is to inform the Legislature that I have accepted and will implement the recommendations of the Productivity Realization Task Force regarding the State Department of Audit, the Treasury Department, and the Office of the Secretary of State.

Implementation of the Productivity Realization Task Force recommendations for these three agencies will result in position eliminations and cumulative net savings in the current biennium as follows:

| | Position | Net Savings | Net Savings |
|----------------|--------------|-------------|--------------|
| | Eliminations | All Funds | General Fund |
| All Funds | | | |
| Office of the | | | |
| Sec. of State | 3 (GF) | \$71,465 | \$71,465 |
| Treasury Dept. | 1 (GF) | \$36,008 | \$36,008 |
| Dept. of Audit | 13 (OSR) | \$846,036 | \$82,000 |

As noted in the relevant plans, these savings have resulted from automating record keeping functions, sharing databases, and increasing collaboration with other offices in the case of the Secretary of State and in a more efficient use of existing personnel and more streamlined operations in the case of the Treasury Department and the Department of Audit.

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

Was read and ordered placed on file.

The following Communication: (H.C. 355)

STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0001

February 27, 1996

The Honorable Jeffrey H. Butland
President, Maine State Senate
#3 State House Station
Augusta, Maine 04333
The Honorable Dan A. Gwadosky
Speaker, Maine House of Representatives
#2 State House Station
Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

This letter is to inform the Legislature that I have accepted and will implement the recommendations of the Productivity Realization Task Force regarding

the collective productivity plan for the Maine Arts Commission, the Historic Preservation Commission, the Maine State Library, and the Maine State Museum.

Implementation of the Cultural Agencies' productivity plan will result in a reduction of 3 General Fund positions [includes 2 half-time positions] and 15 Other Special Revenue part-time seasonal positions [equivalent to 5.5 full-time OSR positions]. Net General Fund savings over the biennium total \$72,724.

This plan completes the consolidation of business functions among the Cultural Agencies commenced several years ago when the four Cultural Agencies took initial steps to centralize accounting, payroll, and personnel functions. In particular, business functions for the Maine Arts Commission will now be completely managed by the consolidated business office for the four agencies, the Maine State Museum will seek increased collaboration with the Maine Association of Museums and the Maine State Archives, and part-time seasonal work for the Historic Preservation Commission for archaeological excavations will be contracted for an as-needed basis.

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

Was read and ordered placed on file.

The following Communication: (H.C. 356)

STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0001

February 27, 1996

The Honorable Jeffrey H. Butland
President, Maine State Senate
#3 State House Station
Augusta, Maine 04333
The Honorable Dan A. Gwadosky
Speaker, Maine House of Representatives
#2 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 Mental Health and Mental Retardation with the exception of those recommendations that require legislative approval. I will be introducing the legislation necessary to accomplish these recommendations.

The Department of Mental Health and Mental Retardation's proposal recommends the elimination of a total of 126 full-time equivalent positions (or 143 positions when including intermittents), and generates savings to the General Fund of \$4,649,175. The proposal also reestablishes 52 positions as class exchanges to meet both mental health and mental retardation consent decree requirements, for a net reduction in FTE's of 74 positions.

I recommend that 100% of the savings generated by this proposal be retained and reinvested by the Department in accordance with the approved plan. Some of the Department's primary objectives in the proposal include: significant administrative restructuring for the Department, both at the central office and regional levels; reallocation of Department resources to enable compliance with consent decrees; heightened emphasis on the needs of

children and adolescents; contracting out services offered at the Bath Children's Home; and renaming the agency, "Department of Mental Health, Mental Retardation and Substance Abuse Services."

The attached material provides detailed information about the Department of Mental Health and Mental Retardation's recommendations. Commissioner Peet and her staff are available to provide additional information or respond to questions. I understand that Commissioner Peet has already given the Joint Standing Committee on Human Resources an extensive briefing on the proposal.

I continue to be encouraged by the results from the Productivity Realization Task Force and look forward to working with the Task Force and the Legislature as we continue this effort.

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

Was read and with accompanying papers ordered placed on file.

The following Communication: (H.C. 357)

STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0001

February 27, 1996

The Honorable Jeffrey H. Butland
President, Maine State Senate
#3 State House Station
Augusta, Maine 04333
The Honorable Dan A. Gwadosky
Speaker, Maine House of Representatives
#2 State House Station
Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

This letter is to inform the Legislature that I have accepted and will implement the recommendations of the Productivity Realization Task Force regarding the Judicial Department's productivity proposal, with the exception of those recommendations requiring Legislative approval. I will submit legislation in this session necessary to implement these recommendations.

Implementation of the Productivity Realization Task Force recommendations will reduce staff in the Judicial Branch by four authorized positions (one of which is a job share affecting two incumbents). In addition, the Judicial plan generates total net savings for both years of the biennium of \$629,584. In accordance with the Productivity Realization Task Force, I recommend that the net FY 96 savings of \$197,847 be contributed to the productivity goal of \$45.2 million. I recommend that the net FY 97 savings of \$431,737 be retained within the Judicial Branch to offset a budget shortfall and subsequent supplemental request.

I note that the Judicial Department's proposal accomplishes productivity improvements by the following means:

- **Court Restructuring** - closing two District Court locations and restructuring clerks' offices in four locations;
- **Transcript Production** - augmenting transcription staff in the Electronic Recording Unit with private vendors, thereby producing transcripts in a more timely fashion;

- **Reorganization of the Administrative Office of the Courts** - reorganizing the staff in the central Administrative Office;
- **Policy and Procedural Changes** - using citizen jurors more efficiently by reducing the size of both grand jury and traverse jury pools; limiting judicial travel; streamlining docketing requirements; and expanding the automated bail account reconciliation system; and
- **Mediation** - replacing the current court mediation services with an alternative dispute resolution service.

The Administrative Office of the Courts is eager to answer any additional questions you may have about their proposal, or please feel free to contact me or my staff at any time.

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

Was read and ordered placed on file.

The following Communication: (H.C. 358)

STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0001

February 27, 1996

The Honorable Jeffrey H. Butland
President, Maine State Senate
#3 State House Station
Augusta, Maine 04333
The Honorable Dan A. Gwadosky
Speaker, Maine House of Representatives
#2 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 recommendation of the Productivity Realization Task Force to create an Administrative Service Center among the Department of Human Services, the Department of Mental Health and Mental Retardation, and the Office of Substance Abuse. I also endorse the Task Force's caveats that this Administrative Service Center be subject to Legislative review three years from its effective date and that the Service Center should identify benchmark criteria by which to gauge its performance over time.

The Service Center enhances productivity by bringing together core personnel in five divisions common to all three agencies:

- Audit Division;
- Contractual Services Division;
- Licensing Division;
- Administrative Hearings Division; and
- Investigations and Complaint Division.

A cumulative total of 25 positions in each of these five areas has been eliminated earlier in the individual reorganization plans of these three agencies. Accordingly, creation of this Service Center itself does not result in additional savings over and above the savings achieved earlier. Rather, this Service Center will serve to enhance coordination, integration, and communication among the three agencies in these 5 critical functions; develop and maintain common policies, procedures, forms, and information; simplify and improve

relations with program managers, providers and clients; provide a single point of access for all customers; coordinate audit and license visits to providers using a single team approach; centralize and enhance training and technical assistance to program and provider personnel; and continue to identify administrative efficiencies among these three agencies over time.

Specifically, I support this Service Center in that it will:

- Eliminate duplicate functions;
- Maximize coordination in the delivery of social services in more efficient and cost effective ways;
- Assure optimal accountability and quality of service to providers and contract agencies;
- Enhance electronic linkages between the state and its program managers and the provider community; and
- Strengthen program management of grants and contracts by providing services to the member agencies in such areas as:
 - financial analysis;
 - performance outcome measures;
 - training; and
 - technical assistance.

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

Was read and ordered placed on file.

At this point, the Speaker appointed Representative JACQUES of Waterville, to serve as Speaker Pro Tem.

The House was called to order by the Speaker Pro Tem.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE Reported Pursuant to Public Law

Representative CAMERON for the Joint Standing Committee on Business and Economic Development pursuant to Public Law 1995, chapter 439 asks leave to submit its findings and to report that the accompanying Bill "An Act Concerning the Treatment of Ocular Diseases by Optometrists" (H.P. 1326) (L.D. 1814) be referred to the Joint Standing Committee on Business and Economic Development for Public Hearing and printed pursuant to Joint Rule 20.

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

Reported Pursuant to Statutes

Representative STROUT for the Maine Turnpike Authority pursuant to the Maine Revised Statutes, Title 23, section 1961, subsection 6 asks leave to submit its findings and to report that the accompanying Bill "An Act to Make Allocations from Maine Turnpike Authority Funds for the Maine Turnpike Authority for the Fiscal Year Ending December 31, 1997" (H.P. 1325) (L.D. 1815) be referred to the Joint Standing Committee on Transportation for Public Hearing and printed pursuant to Joint Rule 20.

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

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

ORDERS

On motion of Representative HICHBORN of Lagrange, the following Order: (H.O. 44)

ORDERED, that Representative Harry W. Bailey of Township 27 be excused February 20 to 22 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Beverly C. Daggett of Augusta be excused February 20 for the duration of her illness.

AND BE IT FURTHER ORDERED, that Representative Joseph D. Driscoll of Calais be excused February 29 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Richard Kneeland of Easton be excused February 22 for personal reasons.

Was read and passed.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Alberta M. Wentworth, former Member of the Maine House of Representatives, now in her 90th year, for her many years of dedication and service to her community and her state. She is a retired Municipal Clerk and she represented the town of Wells in the 109th-114th Legislative Sessions, and still participates in the activities of the area. We extend our very best wishes; (HLS 926) by Representative CARLETON of Wells. (Cosponsors: Senator CARPENTER of York, Representative MURPHY of Berwick)

On objection of Representative CARLETON of Wells, was removed from the Special Sentiment Calendar.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Mr. Speaker, Men and Women of the House: Alberta Wentworth is a grande dame of Wells politics. We will be presenting this certificate to her and honoring her tomorrow evening at the York Lincoln Day dinner.

As you now know, she was the Town Clerk in Wells for many years. At the age of 72, she ran for this State Legislature and served six consecutive terms, being my immediate predecessor. For a time during that period, she also served as a Wells Selectman, driving back and forth between sessions and selectmen meetings late at night. That is quite a feat for somebody her age.

I am happy to report that she is active and spry. She does volunteer work in the local hospitals. She helps out at the Chamber of Commerce. She was, a couple of years ago, appointed to the York County Budget Committee. She is active in the senior citizens'. Two years ago, she was the Citizen of the Year for the Southern Maine Area Agency on Aging. Those who served with her remember her for her energy, oh, her energy, her knowledge of state government, her good humor and her terrorizing of the

motorists on the road from Wells to Augusta. Please join me in wishing her a happy early 90th birthday. Thank you.

Was read and passed and sent up for concurrence.

Samuel E. Tarbox, of Boy Scout Troop #310 in Saco, who has attained the high rank and distinction of Eagle Scout. We extend our congratulations on this occasion; (HLS 913) by Representative POIRIER of Saco. (Cosponsors: Senator PENDEXTER of Cumberland, Representative NADEAU of Saco, Representative KERR of Old Orchard Beach)

On objection of Representative MITCHELL of Vassalboro was removed from the Special Sentiment Calendar.

On further motion of the same Representative, tabled pending passage and later today assigned.

REPORTS OF COMMITTEES Ought to Pass as Amended

Representative LIBBY from the Committee on Education and Cultural Affairs on Bill "An Act to Provide for Record Checks of Elementary and Secondary Education Employees and Applicants" (H.P. 617) (L.D. 827) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-724)

Report was read and accepted. The Bill read once. Committee Amendment "A" (h-724) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, March 5, 1996.

Ought to Pass as Amended

Representative STROUT from the Committee on Agriculture, Conservation and Forestry on Bill "An Act to Amend the Law Regarding the Lease of Submerged Lands" (H.P. 993) (L.D. 1404) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-728)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-728) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, March 5, 1996.

Ought to Pass as Amended

Representative WINGLASS from the Committee on Human Resources on Bill "An Act to Allow Physicians' Offices to Receive Discounts from Pharmaceutical Manufacturers" (H.P. 1169) (L.D. 1601) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-725)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-725) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, March 5, 1996.

Ought to Pass as Amended

Representative REED from the Committee on Taxation on Bill "An Act to Correct a Technical Error Relating to the Research Expense Tax Credit" (EMERGENCY) (H.P. 1212) (L.D. 1662) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-727)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-727) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, March 5, 1996.

Ought to Pass as Amended

Representative SPEAR from the Committee on Agriculture, Conservation and Forestry on Bill "An Act to Increase the Municipal Share of Dog Licensing Fees" (H.P. 1250) (L.D. 1712) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-729)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-729) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, March 5, 1996.

Ought to Pass as Amended

Representative NADEAU from the Committee on Legal and Veterans Affairs on Bill "An Act to Amend the Definition of Outdoor Stadium in the Liquor Licensing Laws" (EMERGENCY) (H.P. 1267) (L.D. 1742) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-726)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-726) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, March 5, 1996.

CONSENT CALENDAR

First Day

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

(S.P. 649) (L.D. 1691) Bill "An Act to Amend the Law Allowing the Growth and Sale of Cultivated Ginseng in Maine" (EMERGENCY) Committee on Agriculture, Conservation and Forestry reporting "Ought to Pass" as amended by Committee Amendment "A" (S-434)

There being no objections, the above item was ordered to appear on the Consent Calendar of Tuesday, March 5, 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:

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

(S.P. 615) (L.D. 1618) Bill "An Act to Reform the Standard of Fiduciary Prudence" (C. "A" S-432)

(S.P. 634) (L.D. 1642) Bill "An Act to Extend Waivers of Certain Provisions of the Education Laws" (C. "A" S-433)

(S.P. 657) (L.D. 1717) Bill "An Act Allowing Towns to Form Regional Shellfish Management Committees" (C. "A" S-429)

(H.P. 1248) (L.D. 1710) Bill "An Act to Simplify Applications for Tax Exemptions for Blind Individuals"

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

BILLS IN THE SECOND READING As Amended

Bill "An Act to Decrease the Paperwork Burden on Maine Businesses by Decreasing the Number of Tax Filings for Retailers" (S.P. 79) (L.D. 167) (C. "B" S-431)

Resolve, Authorizing the State Tax Assessor to Convey the Interest of the State in Certain Real Estate in the Unorganized Territory (H.P. 1219) (L.D. 1669) (C. "A" H-723)

Bill "An Act to Create a Scallop Diving Tender License" (S.P. 655) (L.D. 1715) (C. "A" S-430)

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 Paper was Passed to be Engrossed as Amended and sent up for concurrence.

ENACTORS

An Act to Clarify the Sales Tax Law Applicable to Packaging (S.P. 207) (L.D. 550) (C. "B" S-427)

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

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

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

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

An Act to Confirm That Nonprofit Health Care Providers May Achieve Cost Savings on Professional and General Liability Coverage (S.P. 651) (L.D. 1703) (C. "A" S-425)

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 (S.P. 659) (L.D. 1719) (C. "A" S-426)

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.

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

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

On motion of Representative MITCHELL of Vassalboro was set aside.

On further motion of the same Representative, tabled pending final passage and specially assigned for Tuesday, March 5, 1996.

The Chair laid before the House the following item which was tabled earlier in today's session:

Expression of Legislative Sentiment recognizing Samuel E. Tarbox of Boy Scout Troop #310 (HLS 913) which was tabled by Representative Mitchell of Vassalboro pending passage.

Subsequently, was passed and sent up for concurrence.

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of

adjournment Tuesday, February 27, 1996, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

SENATE DIVIDED REPORT - Majority (7) "Ought to Pass" as amended by Committee Amendment "A" (S-424) - Minority (6) "Ought Not to Pass" - Committee on Labor 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)

- In Senate, Reports read and the Bill and all accompanying papers indefinitely postponed.

TABLED - February 22, 1996 by Representative HATCH of Skowhegan.

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Crystal, Representative Joy.

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House: This bill was presented from a perceived problem with calculating the interest on various aspects of the workers' compensation bill when they had a claim that was delayed for some period of time. Under the provisions of this bill, it would increase or change the calculation of the interest to a 1 percent per month.

There are two different sections of this bill. One, which deals with a 6 percent penalty. The other deals with a 10 percent penalty. This would, in effect, increase the burden to employees with a potential of 12 percent in both categories. The bill, I think, is entirely unnecessary, because we were assured that there are computer programs which will calculate this interest without the difficulty that was anticipated by the sponsor.

In view of this, Mr. Speaker, I would move that this bill and all its accompanying papers be indefinitely postponed. Thank you.

Representative JOY of Crystal moved that the Bill and all accompanying papers be indefinitely postponed.

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

Representative HATCH: Mr. Speaker, Men and Women of the House: Everything that the good Representative said, is in some ways true. It seems that there are two different sections of the law. One is 10 percent. One is 6 percent. This was intended to clarify them a little bit. This bill resolves conflicts and uncertainties about payments of interest on overdue workers' compensation benefits.

Presently, Section 205 identifies two different rates, 10 percent in one subsection and 6 percent in the other. It is not clear what rate, if any, applies to an award for medical bills, nor is it certain what law applies to new awards for old injuries arising prior to 1/1/93.

Yes, it is true that there are computer programs out there. The problem being the only one that would have them are the payers, not the payees. They never have any idea of what they are paying. A lot of good people on the committee decided that this would be a good bill to bring it constant. As proposed, it changes the words to simple and full under the interest section on 39-A, Section 205, subsection 6. That would bring it within one percent a month.

I believe that this is just a clarification bill. It wouldn't cost the employers that much more, because they have all the tables and the computer programs. It still leaves the people who are supposed to receive that interest without any way of

dealing with 6 percent and 10 percent and when they are going to get it. I believe that this is a good bill.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bangor, Representative Stone.

Representative STONE: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER PRO TEM: The Representative may pose his question.

Representative STONE: This is to Representative Hatch. I noticed in the comments that have been made that everybody referred to clarifying as going from 6 percent or 10 percent to 12 percent. To me, that is not clarifying. To me, it is a boost in the interest rate when somebody can only get 4, 5 or 6 percent on a C.D. Why is the business owner burdened with going to, I guess what I would refer to as an exorbitant rate? I am curious how they established 12 percent as a rate that they should be using and not fixing it on a C.D. rate or something else. Thank you.

The SPEAKER PRO TEM: The Representative from Bangor, Representative Stone has posed a question through the Chair to the Representative from Skowhegan, Representative Hatch. The Chair recognizes that Representative.

Representative HATCH: Thank you Mr. Speaker. I would like to respond that it was simply a point of clarifying and would be 1 percent per month, nothing else. It would help the employees to figure out how much was due them. It is simple. It is not compounded.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bangor, Representative Stone.

Representative STONE: Mr. Speaker, Men and Women of the House: I guess, again, I would like to ask that going to 12 percent is not clarifying and if we want to clarify it, could we clarify it at a half a percent a month, 6 percent a year instead of 12 percent a year. It seems to me that would be just as clear. Thank you.

The Chair ordered a division on the motion to indefinitely postpone the Bill and all accompanying papers.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Crystal, Representative Joy.

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House: I think the rule has been pretty much explained to most of the legislators in the three years that I have been here, that the best thing to do is to give this workers' compensation thing a chance to work. The best thing that we can do is keep our hands off it. I would recommend that in this situation too. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Vassalboro, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I have just had an opportunity to read this bill and read the amendment. Part of it is clarification, but part of it is indeed designed to make people pay workers' comp claims on time. No employer, I repeat, no employer would suffer any adverse benefits if they paid their bills on time. That is what this is about. It is to put a disincentive for delaying paying to an injured worker as well as the clarification as the good chair spoke about. I would ask for a roll call.

Representative MITCHELL of Vassalboro requested a roll call on the motion to indefinitely postpone the Bill and all accompanying papers.

The SPEAKER PRO TEM: 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 Hampden, Representative Plowman.

Representative PLOWMAN: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER PRO TEM: The Representative may pose her question.

Representative PLOWMAN: Thank you. As this is an award by a quasi-judicial system can someone tell me how we award interest in a judgment entered in court, how we base the interest based on that, please? Thank you.

The SPEAKER PRO TEM: The Representative from Hampden, Representative Plowman has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from China, Representative Chase.

Representative CHASE: Mr. Speaker, Men and Women of the House: I am rising to attempt to answer Representative Plowman's question. Not being a lawyer, I am on thin ice. Let me just say that it is my understanding that, from what we heard in committee, often the payment made to the injured worker is a matter of negotiation. What we also heard in committee is that the injured worker often does not, in fact, receive any interest even though it is in the law. That was the point of the sponsor in putting this forward.

The other thing that we heard in committee was initially from people who opposed the legislation was that it is really not very difficult at all. After all, this is the day of computers and you can simply program your computer. How long does that take after all and how much effort does it take to push the button?

Again, the sponsor and others who are in the field and who are lawyers and can more appropriately speak to this said that they had never, in fact, seen any of the calculations that the insurance companies were telling us were so easy to come up with. In their experience, the injured worker had, in fact, never received the interest.

I think besides simple clarification, I will be very blunt. I am supporting this legislation, not because it is necessarily simpler, but because, in fact, justice is served. That is, if it is in our law that an injured worker receive interest, then we ought to have that interest determined in such a way that the worker can, in fact, receive it.

The other point was about the amount. Representative Stone asked a good question and again what we heard was that that 6 percent, in effect, is rarely used as the interest rate because of the specific situations that the 6 percent governs. This legislation incorporates a grace period that basically will work with the same percentage of interest that we have always been working with. What will happen is that the injured worker will actually receive the interest. Thank you.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is this bill and all its accompanying papers be

Indefinitely Postponed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 299

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

NAY - Adams, Ahearne, Benedikt, Berry, Bouffard, Brennan, Bunker, Cameron, Carr, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Davidson, Desmond, Etnier, Fitzpatrick, Gamache, Gates, Gerry, Gould, Green, Hatch, Heeschen, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kerr, Kontos, LaFountain, Lemaire, Lemke, Luther, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Neal, Paul, Poulin, Povich, Richard, Richardson, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Strout, Thompson, Townsend, Treat, Tripp, Tuttle, Tyler, Volenik, Winn, The Speaker.

ABSENT - Birney, Daggett, DiPietro, Dore, Driscoll, Fisher, Gooley, Guerrette, Kilkelly, Martin, Nickerson, O'Gara, Pouliot, Truman, Vigue, Watson.

Yes, 68; No, 67; Absent, 16; Excused, 0.

68 having voted in the affirmative and 67 voted in the negative, with 16 being absent, the Bill was indefinitely postponed in concurrence.

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

SENATE PAPERS

The following Joint Order: (S.P. 714)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, March 5, 1996, at 10:00 o'clock in the morning.

Came from the Senate read and passed.

Was read and passed in concurrence.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

The following Joint Order: (S.P. 715)

ORDERED, the House concurring, that Bill, "An Act to Repeal the Requirement that Disbursement Warrants Receive an Affirmative Vote by Municipal Officers," S.P. 608, L.D. 1612, and all its accompanying papers, be recalled from the Governor's desk to the Senate.

Came from the Senate read and passed.

Was read and passed in concurrence. Ordered sent forthwith.

Bill "An Act to Provide a Contingent Allocation to Establish a Federally Funded Military Rebuild Site to be Operated by the Maine National Guard at the former

Loring Air Force Base" (EMERGENCY) (S.P. 716) (L.D. 1817) (Governor's Bill)

Came from the Senate referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Was referred to the Committee on Appropriations and Financial Affairs in concurrence.

Bill "An Act to Create Uniformity in the Granting of Electric and Gas Utility Easements" (S.P. 713) (L.D. 1816)

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.

On motion of Representative POULIOT of Lewiston, the House adjourned at 11:25 a.m., pursuant to the Joint Order (S.P. 714).