

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Seventeenth Legislature

OF THE

State Of Maine

VOLUME III

FIRST REGULAR SESSION

Senate

December 7, 1994 to April 27, 1995

STATE OF MAINE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE

117TH MAINE LEGISLATURE

April 5, 1995

In Senate Chamber
Tuesday
April 11, 1995

Senate called to Order by the President, Jeffrey H. Butland of Cumberland.

Prayer by the Reverend Edward Skane of the Family Christian Center in Presque Isle.

REVEREND EDWARD SKANE: I want to say that it is an honor for me to be here today. I want to thank President Butland, Secretary Ross and Senator Kieffer for inviting me and giving me this honor. I am happy to represent Aroostook County and I would feel good if I could say we could use all the help we can get. I am so happy to be here with you this morning and thank you for having me. We'll bow our heads together.

Our Father, and our God, we thank you for your bountiful blessings. We thank you for the United States of America, the Land of the Free. We pray for our President and the leaders of our nation, that they might seek you during difficult times. We thank you for our home, this great State of Maine. We ask your blessing upon our Governor and his Cabinet, and upon this Senate and its leaders today. We pray that you will give to them your guidance, wisdom and understanding, as they carry on the affairs of this State that we all may prosper. Help us today to be a blessing to others and may we do Thy will, Oh Lord. Amen.

Pledge of Allegiance led by **SENATOR BUSTIN** of Kennebec.

Reading of the Journal of Thursday, April 6, 1995.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.C. 122

The Honorable May M. Ross
Secretary of the Senate
State House Station #3
Augusta, ME 04333

Dear Madam Secretary:

Pursuant to our authority under Title 12 MRSA, Section 4603, we have today appointed Senator Jill Goldthwait of Hancock as the legislative member of the Atlantic States Marine Fisheries Commission.

Please let us know if you have any questions regarding this appointment.

Sincerely,

S/Jeffrey H. Butland S/Dan A. Gwadosky
President of the Senate Speaker of the House

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

The Following Communication: S.C. 123

STATE OF MAINE
Department of Administrative and Financial Services
Bureau of Accounts and Control

April 10, 1995

The Honorable Dan A. Gwadosky
Speaker of the House
117th Legislature

The Honorable Jeffrey H. Butland
President of the Senate
117th Legislature

Dear Mr. Speaker and Mr. President:

In accordance with Title 5, Maine Revised Statutes Annotated, Section 1547, the accompanying Financial Report of the State of Maine is submitted for the fiscal year ended June 30, 1994.

The first section of the report consists of the General Purpose Financial Statements for all funds reported in accordance with generally accepted accounting principles (GAAP). Generally accepted accounting principles for the Governmental Funds uses the modified accrual basis of accounting. Revenues are recognized when they become measurable and available as current assets. Expenditures are generally recognized when the related fund liability

is incurred. Exceptions to Generally Accepted Accounting Principles in these financial statements include accumulated unpaid vacation and sick leave which has not been recorded, and interest on general long-term debt which is recognized when due.

The second section is reported, as it has been in the past, based upon the budgetary and legal requirements. Please refer to Note 9 of the General Notes to the Financial Statements for the reconciliation of the fund balances between the two sections. Comparative budgetary data and statistical information have also been included in this report to promote a better understanding of the State's finances.

Questions and comments about this report or any phase of State finances are always welcome.

Sincerely,

S/Carol F. Whitney
State Controller

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

SENATE PAPERS

Bill "An Act Regarding the Schedule of the Distribution of Funds from the Maine Environmental Trust Fund" (Emergency)

S.P. 468 L.D. 1264

Presented by Senator **PARADIS** of Aroostook
Cosponsored by Representatives: **JACQUES** of Waterville, **SPEAR** of Nobleboro, **STROUT** of Corinth

Submitted by the Department of Conservation pursuant to Joint Rule 24.

Bill "An Act to Establish the Maine Outdoor Recreation Council"

S.P. 471 L.D. 1267

Presented by Senator **O'DEA** of Penobscot
Cosponsored by Senator: **MICHAUD** of Penobscot

Reference to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** suggested and **ORDERED PRINTED.**

Which were referred to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and **ORDERED PRINTED.**

Sent down for concurrence.

Bill "An Act to Provide Reimbursement from the General Fund for Search and Rescue Operations of the Department of Inland Fisheries and Wildlife"
S.P. 463 L.D. 1259

Presented by Senator **HALL** of Piscataquis
Cosponsored by Senator: **KIEFFER** of Aroostook,
Representatives: **BAILEY** of Township 27, **CHICK** of Lebanon, **GREENLAW** of Standish, **JACQUES** of Waterville, **ROTONDI** of Madison, **TUFTS** of Stockton Springs

Reference to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** suggested and **ORDERED PRINTED.**

Which was referred to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and **ORDERED PRINTED.**

Sent down for concurrence.

Bill "An Act to Strengthen Oversight of Medical Malpractice Insurance and Stabilize Premiums"
S.P. 458 L.D. 1254

Presented by Senator **MILLS** of Somerset
Cosponsored by Representative: **JONES** of Bar Harbor

Reference to the Committee on **BANKING AND INSURANCE** suggested and **ORDERED PRINTED.**

Which was referred to the Committee on **BANKING AND INSURANCE** and **ORDERED PRINTED.**

Sent down for concurrence.

Bill "An Act to Regulate the Wholesale Sale of Cigarettes"

S.P. 455 L.D. 1251

Presented by Senator **MILLS** of Somerset

Bill "An Act to Redefine the Oil and Solid Fuel Board"

S.P. 474 L.D. 1270

Presented by Senator **HARRIMAN** of Cumberland
Cosponsored by Senators: **BUTLAND** of Cumberland, **HATHAWAY** of York, Representatives: **GREENLAW** of Standish, **POULIN** of Oakland, **POVICH** of Ellsworth, **ROBICHAUD** of Caribou

Bill "An Act to Revise and Add to the Laws Regulating the Practice of Professional Engineering"
S.P. 475 L.D. 1271

Presented by Senator **HARRIMAN** of Cumberland
Cosponsored by Representative: **POVICH** of Ellsworth

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.

Bill "An Act Concerning the Practice of Professional Nursing"

S.P. 476 L.D. 1300

Presented by Senator **PENDEXTER** of Cumberland
Cosponsored by Senator **AMERO** of Cumberland,
Representatives: **BAILEY** of Township 27, **REED** of Dexter

Reference to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** suggested and **ORDERED PRINTED**.

Which were referred to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Authorize Certain Employees of the Department of Corrections to Use Deadly Force"

S.P. 454 L.D. 1250

Presented by Senator **O'DEA** of Penobscot
Cosponsored by Senator: **KIEFFER** of Aroostook,
Representatives: **CLUKEY** of Houlton, **THOMPSON** of Naples

Submitted by the Department of Corrections pursuant to Joint Rule 24.

Bill "An Act to Permit Wire-tapped Conversations of or with Prisoners to be Used in Court"

S.P. 460 L.D. 1256

Presented by Senator **BENOIT** of Franklin
Cosponsored by Senator: **CAREY** of Kennebec,
Representatives: **BUNKER, JR.** of Kossuth Township, **WHEELER** of Bridgewater

Submitted by the Department of Corrections pursuant to Joint Rule 24.

Bill "An Act to Make Certain Changes to the Maine Juvenile Code"

S.P. 466 L.D. 1262

Presented by Senator **BENOIT** of Franklin

Submitted by the Department of the Attorney General pursuant to Joint Rule 24.

Reference to the Committee on **CRIMINAL JUSTICE** suggested and **ORDERED PRINTED**.

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

Sent down for concurrence.

Bill "An Act to Amend Laws Regarding False Claims for Payment or Approval by the Department of Human Services"

S.P. 462 L.D. 1258

Presented by Senator **PENDEXTER** of Cumberland

Submitted by the Department of the Attorney General pursuant to Joint Rule 24.

Reference to the Committee on **HUMAN RESOURCES** suggested and **ORDERED PRINTED**.

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

Sent down for concurrence.

Bill "An Act to Allow the Court to Dismiss Frivolous Lawsuits Filed by Persons Requesting Leave to Proceed In Forma Pauperis"

S.P. 453 L.D. 1249

Presented by Senator **BENOIT** of Franklin
Cosponsored by Representatives: **BUNKER, JR.** of Kossuth Township, **GOOLEY** of Farmington

Submitted by the Department of Corrections pursuant to Joint Rule 24.

Bill "An Act to Clarify the Role of Prelitigation Screening Panels under the Health Security Act"

S.P. 456 L.D. 1252

Presented by Senator **MILLS** of Somerset
Cosponsored by Representative: **JONES** of Bar Harbor

Resolve, to Allow the Attorney General to Enter into Consortiums with Other States for the Purpose of Bringing Suit Against the Federal Government Regarding the Issue of Unfunded Federal Mandates (Emergency)

S.P. 469 L.D. 1265

Presented by Senator **HATHAWAY** of York
Cosponsored by Senators: **AMERO** of Cumberland, **BEGLEY** of Lincoln, **BENOIT** of Franklin, **CARPENTER** of York, **CASSIDY** of Washington, **FERGUSON, JR.** of Oxford, **HALL** of Piscataquis, **HANLEY** of Oxford, **LORD** of York, **PENDEXTER** of Cumberland, **SMALL** of Sagadahoc, **STEVENS, JR.** of Androscoggin,
Representatives: **AIKMAN** of Poland, **AULT** of Wayne, **GREENLAW** of Standish, **HARTNETT** of Freeport, **JOYCE** of Biddeford

Reference to the Committee on **JUDICIARY** suggested and **ORDERED PRINTED**.

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

Sent down for concurrence.

Bill "An Act Relating to the Retirement Benefits for the Maine Warden Service"

S.P. 473 L.D. 1269

Presented by Senator HALL of Piscataquis
Cosponsored by Senators: BENOIT of Franklin,
KIEFFER of Aroostook, Representatives: BAILEY of
Township 27, CHICK of Lebanon, CLUKEY of Houlton,
GREENLAW of Standish, JACQUES of Waterville,
ROTONDI of Madison, TUFTS of Stockton Springs

Reference to the Committee on LABOR suggested and
ORDERED PRINTED.

Which was referred to the Committee on LABOR and
ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Clarify That an Arrearage by a
Federally Assisted Tenant Applies Only to the
Tenant's Share"

S.P. 461 L.D. 1257

Presented by Senator CLEVELAND of Androscoggin

Reference to the Committee on LEGAL AND VETERANS
AFFAIRS suggested and ORDERED PRINTED.

Which was referred to the Committee on LEGAL AND
VETERANS AFFAIRS and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Repeal the Automobile Emissions
Testing Law, to Repeal the Requirement to Use
Reformulated Gasoline and to Withdraw Maine from the
Ozone Transport Region"

S.P. 464 L.D. 1260

Presented by Senator HATHAWAY of York
Cosponsored by Senators: BENOIT of Franklin,
CARPENTER of York, CASSIDY of Washington, HANLEY
of Oxford, PENDEXTER of Cumberland, SMALL of
Sagadahoc, STEVENS, JR. of Androscoggin,
Representatives: AIKMAN of Poland, AULT of Wayne,
JOYCE of Biddeford

Bill "An Act to Delegate Permit-granting
Authority to Municipalities"

S.P. 467 L.D. 1263

Presented by Senator LONGLEY of Waldo
Cosponsored by Senators: CAREY of Kennebec, O'DEA
of Penobscot, Representatives: BARTH, JR. of
Bethel, BUNKER, JR. of Kossuth Township, GATES of
Rockport

Reference to the Committee on NATURAL RESOURCES
suggested and ORDERED PRINTED.

Which were referred to the Committee on NATURAL
RESOURCES and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act Concerning Fees Collected for the
Restoration, Recreation and Preservation of Records
in the Register of Deeds Offices"

S.P. 465 L.D. 1261

Presented by Senator O'DEA of Penobscot

Reference to the Committee on STATE AND LOCAL
GOVERNMENT suggested and ORDERED PRINTED.

Which was referred to the Committee on STATE AND
LOCAL GOVERNMENT and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Improve Access to Corporate Tax
Data"

S.P. 457 L.D. 1253

Presented by Senator MILLS of Somerset

Bill "An Act to Reduce the Maine Sales Tax and
the Meals and Lodging Tax to 3%" (Emergency)

S.P. 470 L.D. 1266

Presented by Senator HATHAWAY of York
Cosponsored by Senators: BENOIT of Franklin,
HANLEY of Oxford, Representative: PLOWMAN of
Hampden

Reference to the Committee on TAXATION suggested
and ORDERED PRINTED.

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

Sent down for concurrence.

Bill "An Act to Create the Northern New England Passenger Rail Authority" (Emergency)
S.P. 459 L.D. 1255

Presented by Senator HARRIMAN of Cumberland (GOVERNOR'S BILL)
Cosponsored by Representative O'GARA of Westbrook and Senators: AMERO of Cumberland, CAREY of Kennebec, CASSIDY of Washington, LAWRENCE of York, MILLS of Somerset, PARADIS of Aroostook, RAND of Cumberland, RUHLIN of Penobscot, SMALL of Sagadahoc, STEVENS, JR. of Androscoggin, Representatives: ADAMS of Portland, BAILEY of Township 27, BRENNAN of Portland, CARLETON, JR. of Wells, CLARK of Millinocket, DEXTER of Kingfield, DIPIETRO of South Portland, HICHBORN of Lagrange, JACQUES of Waterville, KERR of Old Orchard Beach, LINDAHL of Northport, MADORE of Augusta, MITCHELL of Vassalboro, MURPHY of Berwick, POULIOT of Lewiston, RICKER of Lewiston, SAXL of Portland, STROUT of Corinth, TUTTLE, JR. of Sanford

Bill "An Act to Transfer Oversight of Commercial Driver Education Programs to the Secretary of State"
S.P. 477 L.D. 1301

Presented by Senator PENDEXTER of Cumberland
Cosponsored by Representative BAILEY of Township 27 and Representative: STEDMAN of Hartland

Reference to the Committee on TRANSPORTATION suggested and ORDERED PRINTED.

Which were referred to the Committee on TRANSPORTATION and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act Relating to Procedures before the Public Utilities Commission"
S.P. 472 L.D. 1268

Presented by Senator CARPENTER of York
Cosponsored by Representative KONTOS of Windham

Submitted by the Public Utilities Commission pursuant to Joint Rule 24.

Reference to the Committee on UTILITIES AND ENERGY suggested and ORDERED PRINTED.

Which was referred to the Committee on UTILITIES AND ENERGY and ORDERED PRINTED.

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

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

Senator PARADIS of Aroostook was granted unanimous consent to address the Senate off the Record.

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

On motion by Senator LAWRENCE of York, RECESSED until 11 o'clock this morning.

After Recess

Senate called to order by the President.

Off Record Remarks

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Require That a Person Providing a Dog to a Laboratory Show Proof of Ownership of the Dog"

H.P. 896 L.D. 1272

Reference to the Committee on AGRICULTURE, CONSERVATION AND FORESTRY suggested and ORDERED PRINTED.

Comes from the House, referred to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and **ORDERED PRINTED**.

Which was referred to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**, in concurrence.

Resolve, Directing the Department of Professional and Financial Regulation to Review Continuing Education Requirements for Medical Professions (Emergency)
H.P. 901 L.D. 1277

Reference to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** suggested and **ORDERED PRINTED**.

Comes from the House, referred to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**.

Which was referred to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT**, in concurrence.

Bill "An Act to Require County and State Inmates to Pay a Health Care Fee"
H.P. 891 L.D. 1244

Bill "An Act to Require Minimum Mandatory Sentences for Persons Convicted of Assault Crimes"
H.P. 900 L.D. 1276

Bill "An Act to Prohibit Home Repair Fraud and Establish Aggravated Penalties When the Victim Is an Older Person"
H.P. 918 L.D. 1294

Reference to the Committee on **CRIMINAL JUSTICE** suggested and **ORDERED PRINTED**.

Come from the House, referred to the Committee on **CRIMINAL JUSTICE** and **ORDERED PRINTED**.

Which were referred to the Committee on **CRIMINAL JUSTICE**, in concurrence.

Bill "An Act to Establish Minimum Statewide Standards for Teachers' Salaries"
H.P. 887 L.D. 1240

Resolve, to Standardize the Basic Entrance and Placement Examinations for the Maine Technical College System and the University of Maine System
H.P. 898 L.D. 1274

Resolve, Directing the Department of Education and the Department of Professional and Financial Regulation to Review the Continuing Education Requirements for Speech Therapists Working in the Schools (Emergency)
H.P. 899 L.D. 1275

Reference to the Committee on **EDUCATION AND CULTURAL AFFAIRS** suggested and **ORDERED PRINTED**.

Come from the House, referred to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and **ORDERED PRINTED**.

Which were referred to the Committee on **EDUCATION AND CULTURAL AFFAIRS**, in concurrence.

Bill "An Act to Further Support the Community Service Volunteer Programs of the National Senior Service Corps of Maine"
H.P. 889 L.D. 1242

Bill "An Act to Establish the Work-Not-Welfare Pilot Program"
H.P. 895 L.D. 1248

Bill "An Act to Amend the Certificate of Need Laws to Include Rural Health Clinics"
H.P. 912 L.D. 1288

Resolve, to Increase Payments to Foster Parents
H.P. 914 L.D. 1290

Reference to the Committee on **HUMAN RESOURCES** suggested and **ORDERED PRINTED**.

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

Which were referred to the Committee on **HUMAN RESOURCES**, in concurrence.

Bill "An Act to Restrict the Use of State Agencies for Representation of Nonresidents under the Uniform Interstate Family Support Act"
H.P. 886 L.D. 1239

Reference to the Committee on **HUMAN RESOURCES** suggested and **ORDERED PRINTED**.

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

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

Bill "An Act to Ensure Public Review and Legislative Oversight of Proposals Regarding the Introduction or Reintroduction of Threatened or Endangered Species"

H.P. 884 L.D. 1237

Bill "An Act to Provide a \$35 Bounty on Coyotes"
H.P. 885 L.D. 1238

Bill "An Act to Change the Atlantic Sea Run Salmon Commission"
H.P. 922 L.D. 1298

Reference to the Committee on **INLAND FISHERIES AND WILDLIFE** suggested and **ORDERED PRINTED**.

Come from the House, referred to the Committee on **INLAND FISHERIES AND WILDLIFE** and **ORDERED PRINTED**.

Which were referred to the Committee on **INLAND FISHERIES AND WILDLIFE**, in concurrence.

Bill "An Act to Amend the Probate Code Regarding Conservatorship Funds and to Require Bonds for Out-of-state Conservators"

H.P. 911 L.D. 1287

Bill "An Act to Require That Grandparent Visitation Rights Be Included in Divorce Decrees"
H.P. 916 L.D. 1292

Reference to the Committee on **JUDICIARY** suggested and **ORDERED PRINTED**.

Come from the House, referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**.

Which were referred to the Committee on **JUDICIARY**, in concurrence.

Bill "An Act to Implement Campaign Finance Reforms"

H.P. 893 L.D. 1246

Bill "An Act to Restrict Private Political Campaign Contributions in State Elections"
H.P. 923 L.D. 1299

Reference to the Committee on **LEGAL AND VETERANS AFFAIRS** suggested and **ORDERED PRINTED**.

Come from the House, referred to the Committee on **LEGAL AND VETERANS AFFAIRS** and **ORDERED PRINTED**.

Which were referred to the Committee on **LEGAL AND VETERANS AFFAIRS**, in concurrence.

Bill "An Act to Repeal the 100-foot Setback from Landfills for Recycling Facilities"
H.P. 888 L.D. 1241

Bill "An Act to Reestablish the Great Pond Task Force"
H.P. 890 L.D. 1243

Bill "An Act to Amend the Income Eligibility Criteria of the Small Community Wastewater Program"
H.P. 915 L.D. 1291

Reference to the Committee on **NATURAL RESOURCES** suggested and **ORDERED PRINTED**.

Come from the House, referred to the Committee on **NATURAL RESOURCES** and **ORDERED PRINTED**.

Which were referred to the Committee on **NATURAL RESOURCES**, in concurrence.

Bill "An Act Limiting the Types of Municipal Investments"
H.P. 892 L.D. 1245

Resolve, to Ensure Standardization among State Agency Regulations
H.P. 897 L.D. 1273

Bill "An Act to Correct Obsolete References to Justices of the Peace"
H.P. 906 L.D. 1282

Bill "An Act to Update and Clarify Administrative Procedures"
H.P. 907 L.D. 1283

Bill "An Act to Clarify and Expand the Powers and Duties of Lake Arrowhead Community, Incorporated, and to Change Its Name to Lake Arrowhead Community Municipal Services Corporation" (Emergency)
H.P. 909 L.D. 1285

Reference to the Committee on **STATE AND LOCAL GOVERNMENT** suggested and **ORDERED PRINTED**.

Come from the House, referred to the Committee on **STATE AND LOCAL GOVERNMENT** and **ORDERED PRINTED**.

Which were referred to the Committee on **STATE AND LOCAL GOVERNMENT**, in concurrence.

Bill "An Act to Decrease State Costs by Requiring That Both Parties Involved in a Property Tax Dispute Share Hearing Costs"

H.P. 902 L.D. 1278

Bill "An Act to Exempt Computer Software Services from Taxation"

H.P. 903 L.D. 1279

Bill "An Act to Provide a Tax Credit for Small Businesses Providing Health Insurance Benefits for Employees"

H.P. 904 L.D. 1280

Bill "An Act Altering the Method of Computing the Hospital Tax" (Emergency)

H.P. 910 L.D. 1286

Bill "An Act to Amend the Property Tax Applicable to Institutions and Organizations"

H.P. 913 L.D. 1289

Bill "An Act to Reduce the Sales Tax to 5% by October 1, 1996"

H.P. 917 L.D. 1293

Reference to the Committee on **TAXATION** suggested and **ORDERED PRINTED**.

Come from the House, referred to the Committee on **TAXATION** and **ORDERED PRINTED**.

Which were referred to the Committee on **TAXATION**, in concurrence.

Bill "An Act to Conform Maine Law with the Provisions of the Federal Clean Air Act and the Internal Revenue Code Pertaining to the Use of Dyed Fuel on Highways" (Emergency)

H.P. 919 L.D. 1295

Reference to the Committee on **TAXATION** suggested and **ORDERED PRINTED**.

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

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator **CAREY**.

Senator **CAREY:** Thank you Mr. President. If I may, I would like to pose a question through the Chair to the Chairman of Transportation, the good Senator from Androscoggin, Senator Stevens. If the Senator would look at this item he may find that it is more an item for the Transportation Committee than the Taxation Committee. I would await his answer if I might, Mr. President.

On motion by Senator **AMERO** of Cumberland, Tabled until Later in Today's Session, pending **REFERENCE**.

Bill "An Act Concerning the Transportation of Crushed Vehicles"

H.P. 883 L.D. 1236

Bill "An Act to Ensure Consistency in the Laws Governing Maine's Roads"

H.P. 921 L.D. 1297

Reference to the Committee on **TRANSPORTATION** suggested and **ORDERED PRINTED**.

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

Which were referred to the Committee on **TRANSPORTATION**, in concurrence.

Bill "An Act to Create the Overhead High-voltage Line Safety Act"

H.P. 894 L.D. 1247

Bill "An Act to Clarify Notice Requirements and a Party's Opportunity to be Heard"

H.P. 905 L.D. 1281

Bill "An Act to Remove Outdated Provisions from the Public Utilities Law"

H.P. 908 L.D. 1284

Reference to the Committee on **UTILITIES AND ENERGY** suggested and **ORDERED PRINTED**.

Come from the House, referred to the Committee on **UTILITIES AND ENERGY** and **ORDERED PRINTED**.

Which were referred to the Committee on **UTILITIES AND ENERGY**, in concurrence.

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Require Labeling on Genetically Engineered Food"
H.P. 220 L.D. 279

Reported that the same **Ought Not to Pass.**

Signed:

Senators:

CASSIDY of Washington
LORD of York
PARADIS of Aroostook

Representatives:

KNEELAND of Easton
SPEAR of Nobleboro
HICHBORN of Lagrange
TYLER of Windham
STROUT of Corinth
CROSS of Dover-Foxcroft
DEXTER of Kingfield

The Minority of the same Committee on the same subject reported that the same **Ought to Pass.**

Signed:

Representatives:

KILKELLY of Wiscasset
AHEARNE of Madawaska
HEESCHEN of Wilton

Comes from the House with the Bill and Accompanying Papers **INDEFINITELY POSTPONED.**

Which Reports were **READ.**

Senator **RAND** of Cumberland moved the Senate **ACCEPT** the Minority **OUGHT TO PASS** Report in **NON-CONCURRENCE.**

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

The Chair noted the absence of Senator **BERUBE** of Androscoggin, and excused her from today's Roll Call votes.

The Chair noted the absence of Senator **LORD** of York, and excused him from this Roll Call vote.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **RAND** of Cumberland that the Senate **ACCEPT** the Minority **OUGHT TO PASS** Report in **NON-CONCURRENCE.**

A vote of Yes will be in favor of **ACCEPTANCE** of the Minority **OUGHT TO PASS** Report in **NON-CONCURRENCE.**

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: **CAREY, CLEVELAND, FERGUSON, GOLDTHWAIT, HARRIMAN, LAWRENCE, LONGLEY, PINGREE, RAND**

NAYS: Senators: **ABROMSON, AMERO, BEGLEY, BENOIT, BUSTIN, CARPENTER, CASSIDY, CIANCHETTE, ESTY, FAIRCLOTH, HALL, HANLEY, HATHAWAY, KIEFFER, MICHAUD, MILLS, O'DEA, PARADIS, PENDEXTER, RUHLIN, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND**

ABSENT: Senator: **MCCORMICK**

EXCUSED: Senators: **BERUBE, LORD**

Senator **BUSTIN** of Kennebec requested and received Leave of the Senate to change her vote from **YEA** to **NAY.**

Senator **FERGUSON** of Oxford requested and received Leave of the Senate to change his vote from **NAY** to **YEA.**

9 Senators having voted in the affirmative and 23 Senators having voted in the negative, with 1 Senator being absent and 2 Senators having been excused, the motion of Senator **RAND** of Cumberland to **ACCEPT** the Minority **OUGHT TO PASS** Report in **NON-CONCURRENCE, FAILED.**

The Majority **OUGHT NOT TO PASS** Report **ACCEPTED.**

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine Allowing Maine Citizens to Propose Constitutional Amendments by Initiative
H.P. 227 L.D. 305

Reported that the same **Ought Not to Pass.**

Signed:

Senators:

AMERO of Cumberland
CARPENTER of York
LONGLEY of Waldo

Representatives:

DAGGETT of Augusta
SAXL of Bangor
ROSEBUSH of East Millinocket
ROBICHAUD of Caribou
LANE of Enfield
SAVAGE of Union
YACKOBITZ of Hermon

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-46).**

Signed:

Representatives:

AHEARNE of Madawaska
LEMKE of Westbrook
GERRY of Auburn

Comes from the House with the Majority **UGHT NOT TO PASS** Report **READ** and **ACCEPTED.**

Which Reports were **READ.**

The Majority **UGHT NOT TO PASS** Report **ACCEPTED,** in concurrence.

Senate

Ought to Pass As Amended

Senator **CASSIDY** for the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Allow County Commissioners to Perform Routine Road Maintenance without Permission from the Maine Land Use Regulation Commission"

S.P. 219 L.D. 561

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-51).**

Which Report was **READ** and **ACCEPTED.**

The Bill **READ ONCE.**

Committee Amendment "A" (S-51) **READ** and **ADOPTED.**

The Bill, as **Amended,** **TOMORROW ASSIGNED FOR SECOND READING.**

Ought to Pass As Amended

Senator **ABROMSON** for the Committee on **BANKING AND INSURANCE** on Bill "An Act Regarding the Disclosure of Financial Information by Federally or State-chartered Credit Unions"

S.P. 274 L.D. 724

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-53).**

Which Report was **READ** and **ACCEPTED.**

The Bill **READ ONCE.**

Committee Amendment "A" (S-53) **READ** and **ADOPTED.**

The Bill, as **Amended,** **TOMORROW ASSIGNED FOR SECOND READING.**

Senator **ABROMSON** for the Committee on **BANKING AND INSURANCE** on Bill "An Act to Clarify the Discharge of Mortgages"

S.P. 275 L.D. 725

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-54).**

Which Report was **READ** and **ACCEPTED.**

The Bill **READ ONCE.**

Committee Amendment "A" (S-54) **READ** and **ADOPTED.**

The Bill, as **Amended,** **TOMORROW ASSIGNED FOR SECOND READING.**

Senator **HATHAWAY** for the Committee on **TAXATION** on Bill "An Act to Include Individuals with Property in a Living Trust in the Maine Residents Property Tax Program"

S.P. 192 L.D. 501

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-52).**

Which Report was **READ** and **ACCEPTED.**

The Bill **READ ONCE.**

Committee Amendment "A" (S-52) **READ** and **ADOPTED.**

The Bill, as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Eliminate Benefits Offered to Legislators"

S.P. 211 L.D. 553

Reported that the same Ought Not to Pass.

Signed:

Senators:

AMERO of Cumberland
CARPENTER of York
LONGLEY of Waldo

Representatives:

DAGGETT of Augusta
AHEARNE of Madawaska
LEMKE of Westbrook
SAXL of Bangor
GERRY of Auburn
ROSEBUSH of East Millinocket
LANE of Enfield
YACKOBITZ of Hermon

The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-55).

Signed:

Representatives:

ROBICHAUD of Caribou
SAVAGE of Union

Which Reports were READ.

Senator HARRIMAN of Cumberland moved that the Senate ACCEPT the Minority OUGHT TO PASS AS AMENDED Report.

Senator BUSTIN of Kennebec requested a Division.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Harriman.

Senator HARRIMAN: Thank you Mr. President, Good Morning Ladies and Gentlemen of the Senate. Before we take a vote I would like to just briefly explain what this piece of legislation seeks to accomplish. Like you, perhaps, I was very surprised to find out when I was elected to office and sworn in that one of the very first things that happens when you go through the orientation process is that you are handed a booklet that explains all of your legislative benefits, including your free health insurance, your dental, your retirement plan, constituent allowances, and the like. I was very

surprised that these benefits were afforded to legislators. Indeed, we are treated like full-time, career-oriented employees. As someone who is self-employed, like many of you, I was in a dilemma. As someone who pays for my health insurance and dental insurance personally, this is a tremendous sacrifice and a lot of money, and I know that you all share that realization as well. But, I made a decision on behalf of my constituents, on behalf of all of my constituents, that I was going to refuse these legislative benefits. As you may know, in Maine law, in order for you to get out of the State pension plan, which is where we get much of these benefits, I had to go to the then President of the Senate, President Dutremble, and literally get his permission, I legally had to get his permission, to opt out of this benefit program, which I did. I then put in a bill that is very similar to the one before you, that simply says if you are in the Maine State Retirement pension system, you are frozen right where you are. You can't lose any ground, you can't gain any ground. Wherever you are today in the pension plan you are frozen. The second part of this bill says that if you need access to health insurance, or dental insurance, it is here for you. In fact, you can have it at the State's low group rates. The State of Maine has probably one of the finest health insurance programs available anywhere in the State of Maine, and that we, as legislators, could have access to it, but that we would pay for it. Right now we get it for free and if you want to add your family, the State pays for half of that. I don't think that represents a cross section of ordinary Maine people, the people that I represent, and that you represent, who are struggling just to get by in their own families and in their own small businesses, who perhaps are this close to deciding not to keep health insurance. Or, over the years they have increased their deductibles from \$100 to \$300 to \$500. In fact, just last night, one of my constituents, who is in charge of the landscaping and floral arrangements at one of the local hotels, told me that her health insurance is now a \$2,500 deductible, because she is just struggling to hang on to pay for these personal health insurance costs.

So, the bill before you does a couple of things. One, I think it demonstrates to the citizens of Maine that we understand the difficult financial predicament the State of Maine is in. In fact, we need to be honest. We need to start facing some facts. Maine is short on cash and long on debt, and we have some obligations that we are not able to meet - our Mental Health Consent Decree, we have cut welfare benefits, there is a proposal to cut the special housing allowance, we have pushed the payroll, we are not paying for the county jails, et cetera, et cetera. Those are all issues that we have talked about so far in this session. Here is an opportunity for each and every one of us to demonstrate the courage to change the way we do business here. This bill before you says beginning in 1996 if you need the coverage it is here, you are welcome to it, you should pay for it. It puts almost half a million dollars, in this budget that we are talking about now, in the hands of the Appropriations Committee to use in ways that will demonstrate to people that we have put our financial house in order, we have got our priorities straight, and we are making tough decisions, and they start with us.

Beyond that, based on the projected increases in the current plan, in the next budget of the next session of the legislature, this bill will save \$2.4 million. That's a lot of money that can be better spent in ways in which we can prove to Maine people that we are helping those who really need our help. Thank you Mr. President, and I request a Roll Call.

On motion by Senator **HARRIMAN** of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Paradis.

Senator **PARADIS:** Thank you Mr. President, Men and Women of the Senate. I have absolutely no apologies to make about whatever it is that we receive here. I rarely do the math, I have my check deposited automatically. Every waking hour of my life as a legislator has been devoted to serving the constituencies of the State of Maine. I have fifty communities in my district, covering hundreds of miles. I have made the choice to do this because I believe in what I am doing. I have taken my best productive years out of service for personal gain in order to be able to do this. I feel that this type of legislation impugns on the honesty of the reasons why we run for this office. I would not be able to be here if I had children because I could not take away their college fund, which I would be working for. My husband has to subsidize me the rest of the year when I am not here, so I am absolutely going to vote against this. I have no problems doing that because if we are truly here for the right reasons we need to be covered. We are putting ourselves at risk, for those of us who are on the road 600 miles every weekend. I think the State of Maine is going to get every dime back of the money they are putting in me right now. Thank you very much.

Senator **CAREY** of Kennebec moved that the Bill and Accompanying Papers be **INDEFINITELY POSTPONED**.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Thank you Mr. President, Men and Women of the Senate. I find myself in agreement, if it is possible, with both of the previous speakers. I rather think that these benefits that were put into place many years ago were enacted at a time when they were very inexpensive. Back at a time when health insurance was relatively cheap and it was not particularly costly to put into place a pension system for State legislators. I think that we will have an awkward time of it, explaining why we have a continuing defined benefit pension system still in place when we have enacted term limits that essentially limit most of us to an eight year duration of service here, so we can't really become vested within the system. We will have a bill later that will deal with the pension system, coming out of the Labor Committee, that will give people an opportunity to vote up or down on whether we want to perpetuate the existing system, which I think probably costs us almost as much as it delivers in benefits, because it is administratively complex and delivers a very small benefit to only a few people later in life. I have other feelings about the

health insurance, and indeed, about dental insurance, and possibly even disability insurance. I think the system that we ought to contemplate having is what many other corporations in America have adopted, a cafeteria plan, where a certain fund of money would be set aside for each legislator in a tax deductible mode, so that you could pick and choose whether you wish to have dental, health, pension or retirement. Any pension or retirement benefit that you might choose to have would be in a defined contribution plan so that you could set it aside and have it vested immediately. It would put us all on an even playing field. It would be an honor system in that the amount of money set aside for each legislator would be there as a fixed figure, rather than buried in financial reports. I intend to support the Senator from Cumberland, Senator Harriman, on this bill. Not so much because I want this to be the end of it, I would like to see this measure pass to do away with the current menu of benefits, but with the reservation that we should replace it with some form of defined contribution cafeteria plan that would set out, right up front, exactly what the tax deductible benefits are that are being extended to each member of this body and the other body. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Ruhlin.

Senator **RUHLIN:** Thank you Mr. President, Honorable Senators of Maine. When you are short on cash and long on debt is when you want to go out and encourage your very best people to come forward into service. That is how you handle those problems. You don't handle those problems by offering lower pay. To have a good representative form of democracy is to encourage the very best, and the very brightest to come forward and offer their services. The more you treat ill of your Legislature, the more you offer to pay ill of your Legislature, the more you offer to speak ill of your Legislature, you run the risk of having a doodle-headed, do-nothing Legislature. You should treat it with respect. You should pay them with respect, and you should do what you can to encourage people to serve there that can be done. That is the way to cure the shortness of money and the debt problems of the State and the other problems that are facing us. Thank you very much.

On motion by Senator **KIEFFER** of Aroostook, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

Off Record Remarks

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Harriman.

Senator **HARRIMAN:** Thank you Mr. President, good afternoon Ladies and Gentlemen. Please understand that this piece of legislation is not directed, in any way, to indicate disrespect or humiliation to

anyone who serves in this Legislature. I know, all too well, the sacrifices personally, professionally and, indeed, financially that we all make to be here. So, this piece of legislation is not meant to make some grand political embarrassment happen. Instead, it is designed to have us step outside of our comfort zone and ask ourselves, "Are we treating ourselves the same way that every other ordinary Maine citizen lives today, the people who we represent, the people who are self-employed, the people who work for small companies, the people who run non-profit organizations?" I think we are not. The question here is not whether legislators will have access to health care, or dental care, or disability; we will. The issue is not how do we prove to people that the Legislature can put everything on the table, about how to balance our budget except legislative benefits. I would agree with the good Senator from Somerset, Senator Mills, I think the idea of some sort of cafeteria plan is a great idea. Where we can budget legislatively beforehand, how much we are going to spend, and let individual legislators pick and choose what sort of benefits they need to supplement their already existing ones if they have them. Let me ask you, how many of you here ran because health insurance and dental insurance and pension plans were available? I bet everyone of you did not have that as your primary reason for running. Once you got here, and you found out that this free coverage was available, how many of you changed your already existing access to health care because this one was a better deal?

When I was campaigning last fall, I was in a debate at one of the local churches. All of the candidates who were running for office in the House and the Senate were asked questions surrounding what we were going to do about long-term care for our elderly. What were we going to do about an act to end discrimination? What were we going to do about access to health care? Of all the things we discussed during that noon hour debate, I made the comment that the State had to get its financial house in order, that it had to establish priorities. For me, the priorities are our elderly, our mentally ill, and our children in harm's way. One of the very first things that I would do to demonstrate that I was willing to make tough choices was to put in a bill that would do what this is seeking to accomplish today. The reaction from that audience was a resounding approval. Our constituents are waiting for us to make these decisions. I will agree, maybe the amount of pay that we receive, and the constituent allowance and everything, is foggy and muddled and hard to understand. But, I think we have to have the courage to deal with these face up. I think paying for our own health insurance is one of those steps. If the State and Local Government Committee, or another jurisdictional committee, wants to look at whether the legislators are receiving enough cash or constituent allowance then let's do it. But, let's not hide these behind different programs.

My goal, quite frankly, was to the State and Local Government Committee to accomplish just that. When I presented this bill before the Committee I was told that there was a similar bill coming down the tracks that would require legislators to pay for 20% of their benefits. Parenthetically, if we pay 20% of

our benefits, after the rate increase next year, we save practically no money. I said fine, I would be happy to work this bill in conjunction with the other one that was coming down from the House. The Committee decided not to wait and voted unanimously Ought Not to Pass on this bill, yet I was told that we were going to work it in conjunction with others. They reconsidered, I went back to the Committee and said thank you for reconsidering, I respectfully request that you table this bill and work it, as you promised, with the other bill. They chose not to do that. This bill is supposedly on a mission to be killed. Let's get rid of it so we can go onto some other bill that looks good but really doesn't save any money. I hope that you will join me in demonstrating the courage today to stand up for what your constituents and mine expect us to do, and that is to make difficult financial choices. I think they ought to start with us and I respectfully request that you vote against the pending motion to Indefinitely Postpone.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Faircloth.

Senator **FAIRCLOTH:** Thank you Mr. President, Colleagues of the Senate. I am very impressed with the sentiments of this bill because I think it is entirely consistent with the concept of noblesse oblige. As someone who admires the House of Lords very much, this legislation would bring us much closer to the reality of the House of Lords for the State of Maine. Maybe that is a good thing, at least then we wouldn't have too much of the riff-raff around. There wouldn't be many people who work with their hands. There would be a lot less people who work as contractors and small business people who would be able to participate in the Legislature, making nine grand a year without any health care. So, there would be less people of that ilk participating in this process. So we would be much more noble, much more consistent with the House of Lords. There might be some of the lessers who might say that we should not only provide more health care for legislators, but more health care for everyone in the State of Maine, but I think this might be a better path to providing a more refined, lordly legislative body. I just think the only amendment we need is to make sure that everybody wear a powdered wig, otherwise I think it's probably fine. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Cassidy.

Senator **CASSIDY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like to just discuss a few things with you this morning. When I decided to make the decision to run for the Maine State Senate I didn't land here and find out all the benefits that I was going to have. I sat down with my wife for several hours and discussed how this was going to affect me, my family, our family income, and all of those sorts of things. I can honestly tell you I didn't run for the money, and I don't think any of you did. The thing that scares me about this particular bill is that we are going to limit the people who are going to have the opportunity to come here and participate and serve the citizens of the State of Maine. I, too, have two children in college. I have a job that I actually lost some of

my benefits on for health care and had to pay an extra 10%. I took all of those things into consideration. A bill such as this, I think, would be detrimental to the State of Maine. There isn't one person that I have talked with here in my few months, around the corridors and in the chambers and at lunch and so on and so forth, that said, "I guess I'll run for the Maine State Senate to make some big bucks." What we don't need to do is to limit the opportunity to serve our State and I hope that you vote to Indefinitely Postpone this. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Since some of my best friends are riff-raff, it would be difficult for me to support full benefits for this body when very recently we decided that 3,000 other working men and women in Maine did not merit coverage for prescription medications. So, although I think that the work that we do here is very important work, and that the benefits and stipend we receive by no means compensate anyone for the number of hours that we put in, because of that earlier decision I feel compelled to support a bill which would terminate benefits for the Legislature. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Pingree.

Senator **PINGREE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I want to speak just very briefly to this. The good Senator from Cumberland asked me to act with courage today. For me, and my district, the courageous vote is to vote to allow us to continue to receive these benefits. I believe there is a very populous notion out there, the Bangor Daily News recently editorialized that we are over-benefitted and over-paid. I feel that we are not compensated too highly for this job. We all work very hard and I respect all of my colleagues for the work that we do. I would ask that those legislators who are willing to vote to take away these benefits voluntarily give those back. I think that would be the appropriate act in this case. If it is something that you can do without, then give it back to the State.

I carry around this little quote from Einstein, and I'm not sure if it is appropriate now, but sometimes it hits me. He said, "Everything should be made as simple as possible but not simpler." I think too often we try to make everything black and white. We try to follow the populous ideas and sometimes the only act of courage is to say no, that is wrong, and we have to do, in this case, what I think is right. Thank you.

The Chair noted the absence of Senator **LORD** of York, and excused him from this Roll Call vote.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **CAREY** of Kennebec to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers.

A vote of Yes will be in favor of **INDEFINITE POSTPONEMENT**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: **ABROMSON, BEGLEY, BENOIT, BUSTIN, CAREY, CARPENTER, CASSIDY, CLEVELAND, ESTY, FAIRCLOTH, FERGUSON, HALL, LAWRENCE, MICHAUD, O'DEA, PARADIS, PENDEXTER, PINGREE, RAND, RUHLIN, SMALL, STEVENS**

NAYS: Senators: **AMERO, CIANCHETTE, GOLDTHWAIT, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LONGLEY, MILLS, and the PRESIDENT, Senator BUTLAND**

ABSENT: Senator: **MCCORMICK**

EXCUSED: Senators: **BERUBE, LORD**

22 Senators having voted in the affirmative and 10 Senators having voted in the negative, with 1 Senator being absent and 2 Senators having been excused, the motion by Senator **CAREY** of Kennebec to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers, **PREVAILED**.

Sent down for concurrence.

SECOND READERS

The Committee on Bills in the Second Reading reported the following:

Senate 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 "A" S-45)

Bill "An Act to Enhance the Clam Industry in the State"

S.P. 103 L.D. 243
(C "A" S-48)

Bill "An Act to Change the Law That Determines When a Sentence in Excess of 20 Years May Be Imposed for a Class A Crime"

S.P. 203 L.D. 546
(C "A" S-44)

Bill "An Act Concerning the System of State Law Libraries" (Emergency)

S.P. 212 L.D. 554
(C "A" S-50)

Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended.**

Sent down for concurrence.

ENACTORS

The Committee on Engrossed Bills reported as truly and strictly engrossed the following:

An Act to Allow Municipalities to Dispose of Abandoned Bicycles

H.P. 133 L.D. 181
C "A" (H-56)

An Act Concerning the Competitive Bidding Process in Cooperative Projects between the State and the Maine Technical College System

H.P. 151 L.D. 199

An Act to Clarify the Law Relating to the Licensing of Accounting Firms

H.P. 232 L.D. 312
C "A" (H-53)

An Act to Exempt Individual Retirement Accounts from Attachment

H.P. 304 L.D. 408
C "A" (H-55)

An Act to Correct Certain Statutory References in the Crime of Negotiating a Worthless Instrument

S.P. 205 L.D. 548

Which were **PASSED TO BE ENACTED** and having been signed by the President, were presented by the Secretary to the Governor for his approval.

An Act to Increase the County Share and Change the Name of the Government Operations Surcharge Fund

H.P. 74 L.D. 110
C "A" (H-48)

On motion by Senator **HANLEY** of Oxford, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

Emergency

An Act Regarding the Prohibition against Restaurants with Lounges Serving Meals to Unaccompanied Minors after 9 P.M.

H.P. 38 L.D. 32
C "A" (H-44)

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator **CLEVELAND:** Thank you Mr. President, Women and Men of the Senate. I generally don't rise to speak to bills that have gotten to this point, but I tell you, quite frankly, it did not come to my attention until more recently what this bill actually was about and it raises some concerns with me that I feel obligated to bring to your attention as well. This bill repeals the section of the law under Class A lounges, which currently says that minors that are unoccupied cannot remain in the lounge after 9 o'clock. What this bill would do is repeal that law, which would mean that minors, those under eighteen years of age, would be able to stay in Class A lounges unaccompanied by any adult whatsoever, after 9 o'clock until the establishment closes. It seems to me that this raises several concerns. My understanding is that there are some who feel that the law, the way it is currently written, creates some problems when a minor is there with someone other than a parent or a guardian - a friend or a neighbor or the like. If the law needs to be amended so that a responsible adult can be the authorized individual, I have no problem with that. I do have some problems, though, in Class A lounges where alcohol is being served, where there are adults present, that we would allow fourteen-year-olds, fifteen-year-olds, girls and boys, to be in that atmosphere where alcohol is being consumed, where adults are present for socialized activities, often looking to see if they can pick someone up in the bar, quite frankly, which is appropriate activity for adults. I think it is not an appropriate setting for minors to be allowed to be in, regardless of whether they are consuming any alcohol. That is not the issue. The issue is is it appropriate to allow our young folks to be in Class A lounges? Is there any reason for them to be there unaccompanied by an adult after 9 o'clock in the evening? I think, perhaps, there isn't. I think it makes some sense to pause for a moment and ask ourselves whether we want to proceed to allow that to occur. I suggest to you that if you don't think it is the appropriate place then you ought not to support it, and if there are those, perhaps, who share some of that opinion I would recommend that perhaps we table the bill so we have an opportunity to examine its actual consequences before we enact it.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Hathaway.

Senator **HATHAWAY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I hope that you reread the title of this bill and I would like to explain the purpose for it. The bill details restaurants with lounges, the purpose of this bill is

to help our tourism industry, particularly in the summertime, when our local restaurants, which also serve alcohol, are not allowed to have minors come in to eat at their restaurant after 9 o'clock with out parents. It also forces our restaurants to keep their kitchens open, even if they don't have any restaurant business after a certain hour, but they have to keep it open as long as the lounge is open. I would suggest that now that we, I know, are all dedicated to helping our small businesses, our tourist business, and our restaurant owners, that this, being the beginning of the tourism season, that we show them in some small way our support, that we want to help them unload one burden that we have placed on them in the past that has proven to be unnecessary. I would just suggest that if you would like to pierce another arrow into the hearts of our small business people then you do not support this, but if you wish to help, you will please support it and support it now, so that we can send some small signal at the beginning of the tourist season. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator **CLEVELAND:** Once again I would ask you to take a moment to look at your bill. It is a very short bill. It is one line. The title may talk about restaurants but the title is not the law. The law is the substance of the bill. The substance of the bill is Section 1, Title 28A, Section 1065, sub 5. An Act enacted by Public Law 1993, C410, part 22 section 18, is repealed. If you look that section up in your book, in the statutes, it is the section under lounges. In the section under lounges it provides that unaccompanied minors after 9 o'clock can't be there. It doesn't say anything about whether you have to have a restaurant. It talks about a Class A lounge and the requirements for licensing under a Class A lounge. The proponents may say there is a restaurant, and perhaps there are restaurants, but that is not what the bill does. So, I just ask you to read the law, and if that is what you want, and that is the message you want to give to young people, that they will be allowed to be unaccompanied in Class A lounges then we ought to pass the bill. For my part, I don't think we ought to do that. Mr. President, when the vote is taken I would ask for a Division.

Senator **CLEVELAND** of Androscoggin requested a Division.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Michaud.

Senator **MICHAUD:** Thank you Mr. President, Men and Women of the Senate. I hope that you will support this bill. This bill repeals the language that was put in the budget in 1993 when they increased the license fees for restaurant/lounges. We used to have a Class A restaurant and this put a new classification, which is a Class A restaurant/lounge. Currently, minors cannot be in a bar. I believe they are Class X. What this bill is intending to do is allow minors into a Class A restaurant/lounge. One of the reasons why the Committee felt strongly about this is because the way the current law operates now, if I had my son in a

Class A restaurant/lounge, that's okay. If he had his friend in there, then that would not be alright. I can understand why the good Senator wants to change that, however, I still feel that we have ski resorts or if something is going on, a conference or what have you, in Portland, and if students want to go out after a prom, in a rural area there are not very many restaurants but there are Class A restaurant/lounges. They should be allowed to go into that restaurant. Mind you, it is illegal for them to serve minors alcohol. That is illegal. The other activities that the good Senator alluded to, that is illegal too. So, the issue is whether or not someone who is twenty years old, who wants to go into a Class A restaurant/lounge, and it is after 9 o'clock on a prom night, that they be allowed to. I don't see anything wrong with that. I do disagree with selling them alcohol, and that should not be permitted, and it is against the law. I would hope that you would support the Committee recommendation. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Carey.

Senator **CAREY:** Thank you Mr. President. The good Senator from Penobscot, Senator Michaud, referred to this as having come out of Appropriations, it came out of the 116th Legislature, out of the Legal Affairs Committee, which I chaired at that time. It was intended to do exactly what Senator Cleveland, from Androscoggin, has pointed out, to keep the minors out of the place after 9 o'clock. They should be escorted; and, if their problem is that if Senator Michaud has a friend who is with his son, and the friend has to leave because Senator Michaud is not the guardian of that friend, it is very simple just to amend this bill to say that a responsible adult would, in fact, take care to be sure that that child could stay in there. We heard a lot of testimony on it and it was unanimous when it came out of the Legal Affairs Committee in the 116th, that this was the way to handle it. We did make an error, I believe, which the good Senator from Penobscot, Senator Michaud, has brought up, that it had to be a parent or a custodian of that particular child. That can easily be rectified by putting in the words "responsible adult". But, to leave those kids in there unattended, if you would, except by the people who are ogling them, and who may, in fact, threaten those children, and we have a lot of weird people out there if you have been reading the paper at all, I would certainly hope that you would go along with the good Senator from Androscoggin, Senator Cleveland.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Hathaway.

Senator **HATHAWAY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. What exactly is the message that we are going to send our young people, perhaps who are eighteen to twenty years old, not as the good Senator, Senator Michaud, said that we already have laws against serving them alcohol, but if you are eighteen years old and are old enough to vote but I'm sorry you can't go into a restaurant to buy a meal after 9 o'clock if that restaurant happens to sell liquor. This is incredible that the complaints that we get from the tourist towns, from

the restaurants, that we would burden our restaurants with this extra expense and this extra regulation. Why we do this is beyond me. Please, please, do something, one little thing for our restaurants and our tourist business, and allow them, at least, to allow people who are eighteen, nineteen, or twenty years old to be able to come into their restaurants and eat after 9 o'clock. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Ferguson.

Senator FERGUSON: Thank you very much Mr. President, Ladies and Gentlemen of the Senate. The 117th Legislature's Legal Affairs Committee voted unanimously to support this legislation. If I may read from the Statement of Fact, these are Class A restaurant/lounges, and lots of times it was pointed out to us that in the summer months, in particular, when tourists are here, folks may not get around to eat until after 9 o'clock. At that particular point they would have to close their bar, they would have to close either the lounge or their restaurant, this was strongly supported by the Restaurant Association and the folks from the tourist industry. I remind you, if these unanimous ought to pass reports are going to mean anything I think we have got to listen to them a little bit. It was hashed out completely in committee, there wasn't any arm-twisting or anything, it was a unanimous vote and we could see the merit of this legislation. I would urge the Senate to support this today. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Pingree.

Senator PINGREE: Thank you Mr. President. I was here during the 116th, and I want to say that at that time I did vote with the good Senator from Kennebec, Senator Carey. I agreed with the argument at the time that the Legal Affairs Committee presented to us. But, I have to say today that I am pleased to know that once in a while I will be voting with the good Senator from York, Senator Hathaway, and on this issue it is a case in point. I represent Camden, which has many establishments which serve tourists, many businesses that depend on the tourist trade. But, that is not the only reason why I am in favor of this bill. One of those restaurants, the Waterfront, in Camden was cited two or three times last year for this rule. This is a perfectly nice restaurant, it has a very small lounge, it is not a rowdy place, it is not a place where I am at all upset to have any of my three teenage children after 9 o'clock. I thought that this was an inappropriate use of the regulation. I think that this is a good way to change it. I have two restaurants in my very own town, my children work there every night, they sit around there after 9 o'clock with their friends, I think it is a perfectly safe place for them to be. So, I am opposed to not allowing kids into Class A restaurants after 9 o'clock and I will be in favor.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator CLEVELAND: Thank you Mr. President. I rise to pose a question. As I look at the statutes, under the statutes for Class A restaurant/lounges, I'm under a different section in this one and I wonder if perhaps I gave reference to the wrong section.

THE PRESIDENT: The Senator from Androscoggin, Senator Cleveland, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Somerset, Senator Mills.

Senator MILLS: Mr. President, Men and Women of the Senate. To answer the question, I think you have to look at the pocket part, Senator Cleveland.

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with 4 Senators having voted in the negative, and 27 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Expand the Uses of the Economic Opportunity Fund

S.P. 230 L.D. 596
C "A" (S-23)

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with No Senators having voted in the negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

ORDERS OF THE DAY

Unfinished Business

The following matters in the consideration of which the Senate was engaged at the time of Adjournment have preference in the Orders of the Day and continue with such preference until disposed of as provided by Senate Rule 29.

The Chair laid before the Senate the first Tabled and Specially Assigned (April 6, 1995) matter:

HOUSE REPORTS from the Committee on LABOR on Bill "An Act to Amend the Misconduct Provisions of the Unemployment Compensation Law"

H.P. 130 L.D. 178

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-51) (7 members)

Minority - Ought Not to Pass (6 members)

Tabled - April 5, 1995 by Senator KIEFFER of Arostook

Pending - ACCEPTANCE OF EITHER REPORT

(In House, April 4, 1995, the Minority OUGHT NOT TO PASS Report READ and ACCEPTED.)

(In Senate, April 5, 1995, Reports READ.)

Senator RAND of Cumberland moved that the Senate ACCEPT the Majority OUGHT TO PASS AS AMENDED Report in NON-CONCURRENCE.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Begley.

Senator BEGLEY: Thank you Mr. President. I rise to ask the body to reject the ought to pass report. This situation arose out of one incident that was taken to court and handled by the court, and eventually the plaintiff lost. In deliberations in the Committee, it started out as a gross negligence comment. The amendment before you is changing it to a simple negligence. In discussion, gross negligence was in question as to how to define it, and of course the term "simple". Listening to people who have worked in the field, the definition of "simple" would not enhance the handling of the particular complaint. As a matter of fact, they thought it would possibly delay or cause employees to lose some of the complaints that they have been winning lately. It was felt that because this was but one incident of many that had been handled, the law should not be changed. In testimony by the individual who works in that particular department, and has worked there for quite a number of years, and I will quote him, "We do not get that many cases in which an individual is discharged after a single act of negligence, and even fewer where the seriousness of this single act is enough to consider a finding of misconduct." That individual testified in opposition to this motion and felt that the law, as it is being handled, is working very well and should continue. Thank you sir.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Rand.

Senator RAND: Thank you Mr. President, Men and Women of the Senate. Probably this bill should more accurately be titled "An Act to Clarify the Misconduct Provisions of the Unemployment Compensation Law". L.D. 178 came to us as a direct response to a decision of the Maine Law Court in Forbes Lilly versus Maine Unemployment Insurance Commission. A truck driver was fired after being responsible for a rather serious accident while driving a tractor trailer on the Interstate. She applied for unemployment benefits, and after due deliberations, the Commission denied her request. She appealed their decision and then won her case in Superior Court. That case was appealed, and the Law

Court, in a four to two decision, vacated the Superior Court ruling and upheld the Unemployment Insurance Commission. Now, the problem, from our perspective, arises because in the majority decision, Justice Wathen stated "Although recurrent acts of negligence typically form the basis for denying benefits, the statutes specifically contemplates that a single act of negligence may also constitute misconduct." This language, and some other, led one of the dissenting judges to say, "Today the Court concludes that a fact finder may characterize a single unfortunate moment of inattentiveness as the functional equivalent of an intentional court." In other words, in further court cases the language used in the majority decision could be used by an attorney to say that just one simple accident, while it can get you fired, could also be used as grounds to deny unemployment benefits. Gail Thayer, who is the Director of the Unemployment Compensation Commission, spoke in opposition to the bill, but the amended version, which is what we are dealing with here, and if anybody would like to look at it it is a very simple, short statement, H-51 is the amendment, when she looked at the amended version she was then in support of this legislation, because she realized that it does just clarify existing law. This has no impact whatsoever on what the Commission can do. The Commission can still find one single act, if it rises to the seriousness of misconduct, can still deny unemployment benefits for that single act. The problem arises for us, as I said previously, in future court decisions where an attorney could get benefits denied using that language. This language was also run by the Attorney General's Office, and they agreed with the Statement of Fact on the amendment which says, "The intention of this amendment is to clarify and reinforce that a single instance of mere carelessness or inattentiveness is not misconduct under current law, and that the law court's decision in Forbes Lilly versus Maine Unemployment Insurance Commission, does not permit denial of benefits for one single act of negligence." I would hope that you would vote with the motion.

Off Record Remarks

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Longley.

Senator LONGLEY: Thank you Mr. President, Men and Women of the Senate. In thinking that there might be one or two of you who haven't made up your mind yet, I will bother to explain, from a lawyer's point of view, what this does. Basically, when you go to unemployment your employer may say that it was misconduct so you don't get unemployment. The employee, if they think it was a mistake, come back and argue it was a mistake. There has never been a situation where one mistake qualified as misconduct. What we are looking at today is at what point is a mistake going to allow you to still collect, and at

what point is it not allowed? Let me just explain, too, that there are types of ways that you can hurt others, or be negligent. We all have a duty to obey the laws and not hurt anybody else. Negligence is when you breach that duty. That is opposed to an intentional tort. An intentional tort is where I want somebody harmed, I form the intent and I harm that person. It is different from negligence, which is more like a human error. Intentional tort is you want to do harm. What this amendment would do is, say if you have been negligent in a minor way, that will not preclude you from possibly recovering your unemployment compensation. But, if you are negligent in a gross way, that constitutes misconduct. If you intentionally harm someone, that constitutes misconduct. What we are saying is that we all make mistakes, and one mistake, if it is of a minor nature, isn't going to deny you your recovery. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **RAND** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE**.

The Chair ordered a Division.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

11 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion of Senator **RAND** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE**, **FAILED**.

The Minority **OUGHT NOT TO PASS** Report, **ACCEPTED**, in concurrence.

The Chair laid before the Senate the second Tabled and Specially Assigned (April 6, 1995) matter:

An Act to Extend the Duration of Workers' Compensation Health Benefit Pilot Projects
H.P. 375 L.D. 510
C "A" (H-42)

Tabled - April 5, 1995 by Senator **KIEFFER** of Aroostook

Pending - **PASSAGE TO BE ENACTED**

(In Senate, March 30, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-42), in concurrence.)

(In House, April 4, 1995, **PASSED TO BE ENACTED**.)

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Lawrence.

Senator **LAWRENCE:** Thank you Mr. President, Men and Women of the Senate. Before we enact this bill I would like to make a few brief comments, on the Record, regarding this legislation. The public advantages of 24-hour medical coverage of workers who need medical care, whether because of workplace injury, occupational disease, or injuries or disease unrelated to employment, is to have the medical care provided without the delays which are often involved in determining whether the condition requiring treatment is a compensable injury under the Workers' Compensation Act or not. Quicker medical treatment means more effective, more economical medical treatment, and earlier return to work. Thus, in addition to the savings achieved for the employer because of the lower administrative overhead of general health insurance, which is approximately 10%, as opposed to workers' compensation coverage including workers' compensation health coverage, which is approximately 30%, the employee, the employer and society generally benefit from the provision of medical care as soon as the medical need arises, rather than delays in medical care with consequent human suffering and financial costs to employees, employers and society exist under the separate workers' compensation health care and general health systems arising because of disputes over which insurance coverage, workers' compensation or general health insurance, applies. Workers' compensation costs are entirely the obligation of the employer. The employee pays no amount for workers' compensation health insurance or wage loss coverage because the employee has taken from him, in return for the provision of workers' compensation coverage, his right to sue for full damages a negligent employer for workplace injury or occupational disease.

The Legislature, in enacting the 24-hour coverage provision, provided "the premium for 24 hour coverage of the employee must be paid entirely by the employer." Because 24-hour coverage is integrated coverage applying to both work-related and non-work related medical conditions, 24-hour coverage is only available to those employers who provide, at their costs, general health insurance to their employees. Under the 24-hour pilot project, the employer must pay all health care costs to the employee, both under the workers' compensation aspect and the non-workers' compensation, or general health insurance, aspect of the 24-hour pilot projects. The 24-hour coverage has potential to work and to work well for employees, employers, and Maine as a whole. It must not be perverted into a plan which places any of the cost of medical care on the employees. This is the reason why in the initial 24-hour legislation, and the current extension of that legislation, the legislature has provided that the employers, to be eligible for 24-hour coverage pilot projects, must pay entirely for all aspects of health care to the employee. This fundamental requirement must be understood by the administrators in the Bureau of Insurance and the Workers' Compensation Board, workers' compensation insurers, general health insurers, and other entities involved in the administration of 24-hour pilot projects. With this understanding of employer responsibility for payment of health care costs, the goal of mutual benefit to

employers, employees and society will be achieved. The goal is not only cost savings, but even more importantly, the avoidance of needless suffering and additional disability caused by the delay in rendition and provision for payment and medical care immediately as soon as the need exists. Thank you very much.

Which was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Off Record Remarks

Senator **HATHAWAY** of York was granted unanimous consent to address the Senate on the Record.

Senator **HATHAWAY**: Thank you Mr. President, Ladies and Gentlemen of the Senate. We often stand here and talk to our colleagues about the great treasures that we have in the State of Maine. If I could, I would like to introduce one to you today. Perhaps she is familiar to you. I know, when I was a young boy growing up in Gardiner, that the public library was, indeed, one of my favorite places to go, and it still is. I still try to visit there, it is just a wonderful place. It is because of one woman who, I think, truly is a treasure to the State of Maine, and that is Glenna Nowell, who is the librarian, and who you may have read about in the Portland paper this past Sunday. Glenna is here today with the librarians, she will be in the Hall of Flags. I would just like to recognize her, if we could, in the back of the room. She is a wonderful treasure to the State of Maine. You will recognize, I think, that for the last eight years she has been in contact with famous people all over the country, and always asks them for their favorite book to read. This list she makes available to people all over the country, and has become quite famous for this. I truly would like to thank her for all of the work that she does, particularly with our young people. Thank you.

Off Record Remarks

On motion by Senator **MILLS** of Somerset, **RECESSED** until 4:30 o'clock in the afternoon.

After Recess

Senate called to order by the President.

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

COMMITTEE REPORTS

House

Ought to Pass

The Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act Relating to Municipal Clerks Who Chair Boards of Voter Registration"

H.P. 410 L.D. 567

Reported that the same **Ought to Pass**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

The Bill **TOMORROW ASSIGNED FOR SECOND READING**.

Ought to Pass As Amended

The Committee on **JUDICIARY** on Bill "An Act to Amend the Limitation on Damages in State Tort Claims Actions to Allow for the Accrual of Post-judgment Interest"

H.P. 377 L.D. 512

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-76)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-76)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-76) **READ** and **ADOPTED**, in concurrence.

The Bill, as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on LEGAL AND VETERANS AFFAIRS on Bill "An Act to Require the Use of the Process of Forcible Entry and Detainer in Eviction of Mobile Home Owners and Tenants"

H.P. 256 L.D. 358

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-73).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-73).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-73) READ and ADOPTED, in concurrence.

The Bill, as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on LEGAL AND VETERANS AFFAIRS on Bill "An Act to Establish a Minimum Percentage Markup for Alcoholic Beverages"

H.P. 276 L.D. 380

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-74).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-74).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-74) READ and ADOPTED, in concurrence.

The Bill, as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Clarify Law Enforcement Relating to Junkyards and Automobile Graveyards"
H.P. 427 L.D. 590

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-75).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-75).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-75) READ and ADOPTED, in concurrence.

The Bill, as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Senate

Ought to Pass As Amended

Senator BENOIT for the Committee on CRIMINAL JUSTICE on Bill "An Act to Include the Law Court's Imprisonment Sentencing Procedure in the Maine Criminal Code"

S.P. 199 L.D. 542

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-56).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-56) READ and ADOPTED.

The Bill, as Amended, TOMORROW ASSIGNED FOR SECOND READING.

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

ENACTORS

The Committee on Engrossed Bills reported as truly and strictly engrossed the following:

An Act to Require an Endorser's Authorization for a Candidate To Use an Endorsement

H.P. 45 L.D. 39
C "A" (H-54)

An Act to Increase the Fee Amount that an Unorganized Territory is Allowed to Retain as an Agent of the State Collecting Excise Taxes

S.P. 57 L.D. 86
C "A" (S-31)

An Act to Clarify the Financial Assurance Provisions Applicable to Solid Waste Disposal Facilities

H.P. 129 L.D. 177
C "A" (H-29)

An Act to Simplify the Procedure for Making Anatomical Gifts under the Motor Vehicle Laws

H.P. 160 L.D. 208
C "A" (H-60)

An Act to Clarify the Status of Certain Gifts to Legislators under the Governmental Ethics Laws

S.P. 114 L.D. 289

An Act to Extend the Return Period for Judgment Executions

S.P. 123 L.D. 298
C "A" (S-29)

An Act to Require That the Dollar Value of the Employee Benefit Package Be Included in All Official Statements Concerning State and Legislative Salaries

H.P. 378 L.D. 513
C "A" (H-47)

An Act to Give the State a Right to Appeal from the Denial of a Rule 35 Motion

S.P. 206 L.D. 549
C "A" (S-38)

Which were **PASSED TO BE ENACTED** and having been signed by the President, were presented by the Secretary to the Governor for his approval.

An Act to Increase the Limit on the Extradition Account

S.P. 53 L.D. 82
C "A" (S-33)

On motion by Senator **KIEFFER** of Aroostook, Tabled 1 Legislative Day, pending **ENACTMENT**.

An Act to Exempt the Custom Sawing of Lumber from the Sales Tax

H.P. 339 L.D. 459
C "A" (H-64)

On motion by Senator **KIEFFER** of Aroostook, Tabled 1 Legislative Day, pending **ENACTMENT**.

An Act to Broaden the Crime of Criminal Mischief and to Repeal the Crime of Animal Enterprise Terrorism

S.P. 204 L.D. 547
C "A" (S-39)

On motion by Senator **KIEFFER** of Aroostook, Tabled 1 Legislative Day, pending **ENACTMENT**.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

Bill "An Act to Conform Maine Law with the Provisions of the Federal Clean Air Act and the Internal Revenue Code Pertaining to the Use of Dyed Fuel on Highways" (Emergency)

H.P. 919 L.D. 1295

Tabled - earlier in the day by Senator **AMERO** of Cumberland.

Pending - **REFERENCE**

(In House, April 11, 1995, **REFERRED** to the Committee on **TAXATION** and **ORDERED PRINTED**.)

Which was referred to the Committee on **TAXATION**, in concurrence.

The Chair laid before the Senate the third Tabled and Specially Assigned (April 6, 1995) matter:

Emergency

An Act to Appropriate Funds for the Expansion and Renovation of the Norway Armory

H.P. 270 L.D. 372
C "A" (H-24)

Tabled - April 5, 1995 by Senator **KIEFFER** of Aroostook.

Pending - **PASSAGE TO BE ENACTED**

(In Senate, March 30, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-24), in concurrence.)

(In House, April 4, 1995, **FAILED OF ENACTMENT.**)

On motion by Senator **KIEFFER** of Aroostook, **TABLED UNASSIGNED**, pending **PASSAGE TO BE ENACTED.**

The Chair laid before the Senate the fourth Tabled and Specially Assigned (April 6, 1995) matter:

Bill "An Act to Consolidate Health Care Planning, Oversight and Regulation in Maine"
H.P. 869 L.D. 1219

Tabled - April 5, 1995 by Senator **PENDEXTER** of Cumberland.

Pending - the Motion by Senator **HATHAWAY** of York to **REFER** to the Committee on **TAXATION.**

(Reference to the Committee on **HUMAN RESOURCES** suggested and **ORDERED PRINTED.**)

(In House, April 5, 1995, referred to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED.**)

Senator **HATHAWAY** of York requested and received Leave of the Senate to withdraw his motion to **REFER** the Bill to the Committee on **TAXATION** in **NON-CONCURRENCE.**

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

The Chair laid before the Senate the fifth Tabled and Specially Assigned (April 6, 1995) matter:

JOINT RESOLUTION relative to Memorializing the Congress of the United States to Stop Mandates that are Beyond its Constitutionally Delegated Powers
H.P. 693
(H"A" H-35)

Tabled - April 5, 1995 by Senator **LAWRENCE** of York.

Pending - the motion by Senator **BUSTIN** of Kennebec to **INDEFINITELY POSTPONE** the Joint Resolution and its Accompanying Paper. (Roll Call Ordered.)

(In House March 23, 1995, **READ** and **ADOPTED AS AMENDED BY HOUSE AMENDMENT "A"** (H-35).)

(In Senate March 23, 1995, Joint Resolution **READ.**)

Senator **LAWRENCE** of York requested and received Leave of the Senate to withdraw his motion for a Roll Call.

Senator **KIEFFER** of Aroostook requested a Division.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **BUSTIN** of Kennebec to **INDEFINITELY POSTPONE** the Joint Resolution and its Accompanying Paper in **NON-CONCURRENCE.**

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

13 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion of Senator **BUSTIN** of Kennebec to **INDEFINITELY POSTPONE** the Joint Resolution and its Accompanying Paper in **NON-CONCURRENCE, FAILED.**

House Amendment "A" (H-35) **READ** and **ADOPTED**, in concurrence.

On motion by Senator **LAWRENCE** of York, Senate Amendment "A" (S-49) **READ.**

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Lawrence.

Senator **LAWRENCE:** Thank you Mr. President, Men and Women of the Senate. This is the amendment to the Joint Resolution which I spoke of earlier that clarifies that this Resolution is not meant to indicate that we feel it is unconstitutional for the federal government to pass legislation like the Civil Rights Act or like the Voters' Rights Act. My concern regarding this Resolution, and I, in fact, spoke to the sponsor of this Resolution, and he indicated that it was his intent that this be a Resolution to indicate that the federal government should not be regulating civil rights, and should not be regulating voters' rights. To me, enormous progress has been made in protecting civil rights of all Americans, and we shouldn't let this Resolution be interpreted to say that we want to roll back those protections that protect the rights of people to vote and the civil rights of people in this country. I hope you will vote for this amendment.

On further motion by same Senator, Senate Amendment "A" (S-49) **ADOPTED.**

THE PRESIDENT: The pending question before the Senate is **ADOPTION** of the Joint Resolution as Amended by House Amendment "A" (H-35) and Senate Amendment "A" (S-49) in **NON-CONCURRENCE.**

Senator **BUSTIN** of Kennebec requested a Division.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

18 Senators having voted in the affirmative and 9 Senators having voted in the negative, **ADOPTION** of the Joint Resolution as Amended by House Amendment "A" (H-35) and Senate Amendment "A" (S-49) in **NON-CONCURRENCE, PREVAILED.**

Sent down for concurrence.

The Chair laid before the Senate the sixth Tabled and Later Today Assigned (April 6, 1995) matter:

SENATE REPORTS from the Committee on **STATE AND LOCAL GOVERNMENT** on **RESOLUTION**, Proposing and Amendment to the Constitution of Maine to Provide for 4-year Terms for Senators

S.P. 155 L.D. 378

Majority - Ought Not to Pass (8 members)

Minority - Ought to Pass as Amended by Committee Amendment "A" (S-25) (5 members)

Tabled - earlier in the day by Senator **AMERO** of Cumberland.

Pending - **FURTHER CONSIDERATION**

(In Senate, March 30, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-25).**)

(In House, April 5, 1995, Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE.**)

On motion by Senator **AMERO** of Cumberland, the Senate **INSISTED AND ASKED FOR A COMMITTEE OF CONFERENCE.**

Sent down for concurrence.

The Chair laid before the Senate the seventh Tabled and Later Today Assigned (April 6, 1995) matter:

SENATE REPORTS from the Committee on **STATE AND LOCAL GOVERNMENT** on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine to Reduce the Size of the Legislature Following Redistricting in the Year 2003

S.P. 170 L.D. 431

Majority - Ought Not to Pass (9 members)

Minority - Ought to Pass as Amended by Committee Amendment "A" (S-26) (4 members)

Tabled - earlier in the day by Senator **AMERO** of Cumberland.

Pending - **FURTHER CONSIDERATION**

(In Senate, March 30, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-26).**)

(In House, April 5, 1995, Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE.**)

On motion by Senator **AMERO** of Cumberland, the Senate **INSISTED AND ASKED FOR A COMMITTEE OF CONFERENCE.**

Sent down for concurrence.

The Chair laid before the Senate the first Tabled and Today Assigned matter:

HOUSE REPORTS from the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Provide for Resident State Police Officers for Municipalities without a Police Force"

H.P. 16 L.D. 10

Majority - Ought Not to Pass (9 members)

Minority - Ought to Pass as Amended by Committee Amendment "A" (H-63) (4 members)

Tabled - April 6, 1995, on Motion by Senator **KIEFFER** of Aroostook.

Pending - the Motion by Senator **BENOIT** of Franklin to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

(In House, April 5, 1995, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED.**)

(In Senate, April 6, 1995, Reports **READ.**)

THE PRESIDENT: The pending question before the Senate is the motion by Senator **BENOIT** of Franklin to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

The Chair ordered a Division.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

18 Senators having voted in the affirmative and 11 Senators having voted in the negative, the motion by Senator **BENOIT** of Franklin to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

The Chair laid before the Senate the second Tabled and Today Assigned matter:

HOUSE REPORTS from the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Require that Employees in 24-Hour Convenience Stores have Access to Telephone and Alarms"

H.P. 127 L.D. 175

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-52) (7 members)

Minority - Ought Not to Pass (6 members)

Tabled - April 6, 1995, on Motion by Senator **KIEFFER** of Aroostook.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, April 5, 1995, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-52).**)

(In Senate, April 6, 1994, Reports **READ**.)

Senator **AMERO** of Cumberland moved that the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator **Ruhlin**.

Senator **RUHLIN:** Point of inquiry to any member of the Committee. The title says "Telephones and Alarms", does it, in fact, mean telephones or alarms? If someone could respond.

THE PRESIDENT: The Senator from Penobscot, Senator **Ruhlin**, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Hancock, Senator **Goldthwait**.

Senator **GOLDTHWAIT:** Thank you Mr. President, Ladies and Gentlemen of the Senate. The amendment changed the bill to read "telephone or alarm", it also changed the requirement to have that telephone

within easy access of the clerk, to having that telephone anywhere within the building, accessible to the clerk. Thank you.

On motion by Senator **AMERO** of Cumberland, the Senate **ACCEPTED** the Minority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the third Tabled and Today Assigned matter:

SENATE REPORTS from the Committee on **STATE AND LOCAL GOVERNMENT** on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine to Require the Popular Election of the Secretary of State
S.P. 49 L.D. 79

Majority - Ought to Pass as Amended by Committee Amendment "A" (S-47) (7 members)

Minority - Ought Not to Pass (6 members)

Tabled - April 6, 1995, on Motion by Senator **AMERO** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, April 6, 1995, Reports **READ**.)

Senator **AMERO** of Cumberland moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

Senator **LONGLEY** of Waldo requested a Division.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **AMERO** of Cumberland that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

A Division has been requested.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

14 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion of Senator **AMERO** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **FAILED**.

The Minority **OUGHT NOT TO PASS** Report **ACCEPTED**.

Sent down for concurrence.

The Chair laid before the Senate the fourth Tabled and Today Assigned matter:

Bill "An Act to Amend Certain Laws Relating to the Collection of Property Taxes"
H.P. 421 L.D. 578

Tabled - April 6, 1995, on Motion by Senator KIEFFER of Aroostook.

Pending - **PASSAGE TO BE ENGROSSED.**

(In House, April 5, 1995, **PASSED TO BE ENGROSSED.**)

(In Senate, April 6, 1995, **READ A SECOND TIME.**)

On motion by Senator HATHAMAY of York, Senate Amendment "A" (S-59) **READ** and **ADOPTED.**

Which was **PASSED TO BE ENGROSSED, As Amended in NON-CONCURRENCE.**

Sent down for concurrence.

The Chair laid before the Senate the fifth Tabled and Today Assigned matter:

Bill "An Act to Establish the Chesuncook Soil Series as the Official State Soil"
S.P. 117 L.D. 292

Tabled - April 6, 1995, on Motion by Senator AMERO of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED.**

(In House, March 21, 1995, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED,** in **NON-CONCURRENCE.**)

(In Senate, April 5, 1995, **RECEDED** and the Majority **OUGHT TO PASS** Report **ACCEPTED,** in concurrence, and the Bill **READ ONCE.**)

(In Senate, April 6, 1995, **READ A SECOND TIME.**)

Senate at Ease

Senate called to order by the President.

Senator LAWRENCE of Cumberland moved to Table until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED.**

The same Senator requested and received Leave of the Senate to withdraw his motion to Table until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED.**

On motion by Senator O'DEA of Penobscot, Senate Amendment "A" (S-41) **READ.**

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator O'Dea.

Senator O'DEA: Thank you very much Mr. President, Men and Women of the Senate. This amendment attempts to address the concern that was raised by a couple of members about what it means to confer State status on an object. What the amendment basically says is that none of our State symbols, from the State Tree to the State Bird, the State Song, the State Flower, Fish, Mineral, Insect, Animal, or Fossil, would enjoy any special protection under the law, or any special consideration under any environmental laws as a result of having this status conveyed on them. Again, this attempts to address the concern that was raised by a couple of members that somehow the conferral of the status of State Soil could somehow hinder some development and would further prevent that from being the case with the flower, the fish, the fossil, or anything else. I would just ask for your support in adopting it. Thank you.

On further motion by the same Senator, Senate Amendment "A" (S-41) **ADOPTED.**

THE PRESIDENT: The pending question before the Senate is **PASSAGE TO BE ENGROSSED AS AMENDED** in **NON-CONCURRENCE.**

Senator HALL of Piscataquis requested a Division.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

11 Senators having voted in the affirmative and 16 Senators having voted in the negative, **PASSAGE TO BE ENGROSSED AS AMENDED** in **NON-CONCURRENCE, FAILED.**

Sent down for concurrence.

Senate at Ease

Senate called to order by the President.

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

ENACTORS

The Committee on Engrossed Bills reported as truly and strictly engrossed the following:

Emergency

An Act to Allow Wine Tasting in Fine Wine Stores and at Special Festivals

H.P. 62 L.D. 98
C "A" (H-59)

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with No Senators having voted in the negative, and 27 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Provide the Maine Legislature with Additional Financial Information

S.P. 95 L.D. 235
C "A" (S-32)

This being an Emergency Measure and having received the affirmative vote of 25 Members of the Senate, with No Senators having voted in the negative, and 25 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Amend Certain Powers of Hospital Administrative District No. 4

S.P. 184 L.D. 493

This being an Emergency Measure and having received the affirmative vote of 26 Members of the Senate, with No Senators having voted in the negative, and 26 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Remove Restrictions on Compensation For Deputy District Attorneys

H.P. 412 L.D. 569
S "A" (S-34)

This being an Emergency Measure and having received the affirmative vote of 26 Members of the Senate, with No Senators having voted in the negative, and 26 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Resolve

Resolve, to Make the Monument Erected at the Mount Hope Cemetery in Bangor the Official State Memorial Honoring Veterans from Maine Who Died during the Korean War

H.P. 23 L.D. 17

Which was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Resolve

Resolve, to Reduce the Paperwork Required in the Purchase of a Vehicle

H.P. 172 L.D. 220
C "A" (H-61)

Which was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Resolve

Resolve, to Name the Connector Road from Exit 6 of the Maine Turnpike to Route 1 in Scarborough the Dr. Philip Haigis Memorial Parkway
H.P. 533 L.D. 729

Which was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

Off Record Remarks

On motion by Senator **MILLS** of Somerset, **ADJOURNED** until Wednesday, April 12, 1995, at 9:30 o'clock in the morning.