

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

In Senate Chamber
Wednesday
April 26, 1995

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

The President requested the Sergeant-at-Arms to escort the Senator from Cumberland, Senator PENDEXTER to the Rostrum where she assumed the duties as President Pro Tem.

The President took a seat on the Floor of the Senate.

Senate called to Order by the President Pro Tem.

PAPERS FROM THE HOUSE

House Papers

Bill "An Act Concerning the Kennebec Water District" H.P. 937 L.D. 1326

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

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

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

COMMUNICATIONS

The Following Communication: S.C. 143

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333

April 25, 1995

Off Record Remarks

Reading of the Journal of Yesterday.

Honorable May M. Ross
Secretary of the Senate
117th Legislature
Augusta, Maine 04333

Dear Madam Secretary:

The House voted today to insist on its former action whereby it failed to enact An Act to Ensure Appropriate Resource and Referral Services for Families Needing Child Care (EMERGENCY) (S.P. 93) (L.D. 233).

Sincerely,

Joseph W. Mayo
Clerk of the House

Which was READ and ORDERED PLACED ON FILE.

The Following Communication: H.P. 962

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333**

April 13, 1995

Dan A. Gwadosky
Speaker of the House
117th Legislature

Jeffrey H. Butland
President of the Senate
117th Legislature

Dear Mr. Speaker and Mr. President:

On April 13, 1995, twelve Bills were received by the Clerk of the House.

Pursuant to the provisions of Joint Rule 14, these bills were referred to the Joint Standing Committees on April 13, 1995 as follows:

Agriculture, Conservation and Forestry

Bill "An Act to Require a Silvicultural Basis for Harvesting That Produces Understocked Stands" (H.P. 958) (L.D. 1347) (Presented by Representative SHIAH of Bowdoinham) (Cosponsored by Representatives: BENEDIKT of Brunswick, BUNKER of Kossuth Township, CHARTRAND of Rockland, HEESCHEN of Wilton, KONTOS of Windham, MERES of Norridgewock, VOLENIK of Sedgwick, Senators: BENOIT of Franklin, MICHAUD of Penobscot, PARADIS of Aroostook, RUHLIN of Penobscot)

Bill "An Act to Clarify Animal Welfare Laws Relating to Euthanasia by Owners" (H.P. 960) (L.D. 1349) (Presented by Representative KILKELLY of Wiscasset) (Cosponsored by Senator: CASSIDY of Washington) (Submitted by the Department of Agriculture, Food and Rural Resources pursuant to Joint Rule 24.)

Appropriations and Financial Affairs

Bill "An Act to Limit the Use of Certificates of Participation" (H.P. 952) (L.D. 1341) (Presented by Representative LEMKE of Westbrook) (Cosponsored by Representatives: GWADOSKY of Fairfield, HATCH of Skowhegan, JACQUES of Waterville, KEANE of Old Town, MITCHELL of Vassalboro, SAMSON of Jay, SIROIS of Caribou, Senator: LAWRENCE of York)

Resolve, Authorizing the Maine Technical College System to Lease Facilities for York County Technical College (EMERGENCY) (H.P. 951) (L.D. 1340) (Presented by Representative CARLETON of Wells) (Cosponsored by Senator LAWRENCE of York and Representatives: AULT of Wayne, CAMPBELL of Holden, GWADOSKY of Fairfield, LIBBY of Kennebunk, MARTIN of Eagle Lake, McELROY of Unity, MURPHY of Berwick, OTT of York, WHITCOMB of Waldo, Senators: KIEFFER of Aroostook, SMALL of Sagadahoc)

Business and Economic Development

Bill "An Act to Amend the Returnable Beverage Container Laws" (H.P. 956) (L.D. 1345) (Presented by Representative CARLETON of Wells)

Criminal Justice

Bill "An Act to Make Certain Changes to Postconviction Review" (H.P. 955) (L.D. 1344) (Presented by Representative THOMPSON of Naples) (Cosponsored by Representative: WHEELER of Bridgewater) (Submitted by the Department of the Attorney General pursuant to Joint Rule 24.)

Human Resources

Bill "An Act to Eliminate Some Food Stamp Eligible Items and Allow Those Food Stores Authorized to Accept Food Stamps to be Women, Infants and Children Special Supplemental Food Program Vendors" (H.P. 953) (L.D. 1342) (Presented by Representative POVICH of Ellsworth) (Cosponsored by Senator HALL of Piscataquis and Representatives: BIRNEY of Paris, CAMERON of Rumford, DEXTER of Kingfield, REED of Dexter, Senators: GOLDTHWAIT of Hancock, HARRIMAN of Cumberland)

Inland Fisheries and Wildlife

Resolve, Establishing a Commission to Study the Trespass Laws (EMERGENCY) (H.P. 954) (L.D. 1343) (Presented by Representative TUFTS of Stockton Springs) (Cosponsored by Representatives: CLARK of Millinocket, GOULD of Greenville, GREENLAW of Standish, Senator: MICHAUD of Penobscot) (Submitted by the Department of Inland Fisheries and Wildlife pursuant to Joint Rule 24.)

Labor

Bill "An Act to Amend the Occupational Disease Law" (H.P. 957) (L.D. 1346) (Presented by Representative CLARK of Millinocket) (Cosponsored by Representatives: ADAMS of Portland, BERRY of Livermore, KEANE of Old Town, MORRISON of Bangor, SAMSON of Jay, Senator: FAIRCLOTH of Penobscot)

State and Local Government

Bill "An Act to Reform the Process of Periodic Review of Programs and Agencies" (H.P. 959) (L.D. 1348) (Presented by Representative ROBICHAUD of Caribou) (Cosponsored by Representatives: BAILEY of Township 27, CAMPBELL of Holden, CARLETON of Wells, GERRY of Auburn, JOYCE of Biddeford, LaFOUNTAIN of Biddeford, PLOWMAN of Hampden, STONE of Bangor, WINGLASS of Auburn, Senators: AMERO of Cumberland, KIEFFER of Aroostook, LONGLEY of Waldo)

Bill "An Act to Repeal Boards That Have Not Filed Annual Reports with the Secretary of State" (H.P. 961) (L.D. 1350) (Reported by Representative DAGGETT for the Secretary of State pursuant to the Maine Revised Statutes, Title 5, section 12006, subsection 2.)

Transportation

Bill "An Act to Create Fair School Bus Driver Licensing" (H.P. 950) (L.D. 1339) (Presented by Representative LEMONT of Kittery) (Cosponsored by Representatives: AULT of Wayne, BUCK of Yarmouth, CAMERON of Rumford, CAMPBELL of Holden, CHICK of Lebanon, CHIZMAR of Lisbon, DiPIETRO of South Portland, FARNUM of South Berwick, FISHER of Brewer, GIERINGER of Portland, LIBBY of Kennebunk, MARSHALL of Eliot, McALEVEY of Waterboro, MURPHY of Berwick, OTT of York, RICE of South Bristol, ROTONDI of Madison, TAYLOR of Cumberland, TRUMAN of Biddeford, WATERHOUSE of Bridgton, Senators: LAWRENCE of York, STEVENS of Androscoggin)

Sincerely,

S/Joseph W. Mayo
Clerk of the House

S/May M. Ross
Secretary of the Senate

Which was READ and ORDERED PLACED ON FILE, in concurrence.

The Following Communication: H.P. 981

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333

April 14, 1995

Dan A. Gwadosky
Speaker of the House
117th Legislature

Jeffrey H. Butland
President of the Senate
117th Legislature

Dear Mr. Speaker and Mr. President:

On April 14, 1995, eighteen Bills were received by the Clerk of the House.

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

Agriculture, Conservation and Forestry

Bill "An Act to Require the Disclosure of the State of Origin of Farm Products" (H.P. 973) (L.D. 1382) (Presented by Representative SPEAR of Nobleboro) (Cosponsored by Representatives: BAILEY of Township 27, CROSS of Dover-Foxcroft, HEESCHEN of Wilton, HICHBORN of Lagrange, KILKELLY of Wiscasset, KNEELAND of Easton, MARSHALL of Eliot, REED of Dexter, Senators: CASSIDY of Washington, LORD of York, PARADIS of Aroostook, PINGREE of Knox)

Banking and Insurance

Bill "An Act to Ensure That Basic Health Care Needs of Women Are Covered in Insurance Policies" (H.P. 976) (L.D. 1385) (Presented by Representative DONNELLY of Presque Isle) (Cosponsored by Representatives: LEMONT of Kittery, MADORE of Augusta, MORRISON of Bangor, SAXL of Portland, SIMONEAU of Thomaston, Senators: LONGLEY of Waldo, McCORMICK of Kennebec, PARADIS of Aroostook, RAND of Cumberland)

Business and Economic Development

Bill "An Act to Increase the Returnable Bottle Fee" (H.P. 965) (L.D. 1374) (Presented by Representative JONES of Bar Harbor) (Cosponsored by Representative: VOLENIK of Sedgwick)

Criminal Justice

Bill "An Act to Ensure a Minimum Sentence for a Sex Crime Committed against a Minor and to Permit Attendance of a Minor's Victim and Witness Advocate at a Grand Jury Proceeding" (H.P. 970) (L.D. 1379) (Presented by Representative CAMERON of Rumford) (Cosponsored by Representatives: BAILEY of Township 27, BARTH of Bethel, CHICK of Lebanon, CROSS of Dover-Foxcroft, DiPIETRO of South Portland, FARNUM of South Berwick, GUERRETTE of Pittston, KEANE of Old Town, LIBBY of Kennebunk, LOVETT of Scarborough, MARSHALL of Eliot, MURPHY of Berwick, PINKHAM of Lamoine, POULIOT of Lewiston, REED of Falmouth, REED of Dexter, SAVAGE of Union, VIGUE of Winslow, WINSOR of Norway, Senator: HARRIMAN of Cumberland)

Human Resources

Bill "An Act to Increase Employment and Training Opportunities for Welfare Recipients" (H.P. 979) (L.D. 1388) (Presented by Representative MITCHELL of Portland) (Cosponsored by Senator BUSTIN of Kennebec and Representatives: BERRY of Livermore, CLARK of Millinocket, DAVIDSON of Brunswick, DORE of Auburn,

ETNIER of Harpswell, FITZPATRICK of Durham, GATES of Rockport, GWADOSKY of Fairfield, JACQUES of Waterville, JOHNSON of South Portland, JONES of Bar Harbor, JOSEPH of Waterville, KERR of Old Orchard Beach, KONTOS of Windham, LEMAIRE of Lewiston, MITCHELL of Vassalboro, NADEAU of Saco, ROWE of Portland, SAMSON of Jay, STEVENS of Orono, THOMPSON of Naples, Senator: O'DEA of Penobscot)

Bill "An Act to Promote Work, Family and Dignity" (H.P. 980) (L.D. 1389) (Presented by Representative TREAT of Gardiner) (Cosponsored by Representatives: ADAMS of Portland, BENEDIKT of Brunswick, BERRY of Livermore, BRENNAN of Portland, CHARTRAND of Rockland, CHASE of China, DESMOND of Mapleton, DORE of Auburn, ETNIER of Harpswell, FISHER of Brewer, FITZPATRICK of Durham, GERRY of Auburn, GOULD of Greenville, GREEN of Monmouth, HATCH of Skowhegan, HEESCHEN of Wilton, JOHNSON of South Portland, JONES of Bar Harbor, KILKELLY of Wiscasset, LUTHER of Mexico, MERES of Norridgewock, MORRISON of Bangor, NADEAU of Saco, RICHARDSON of Portland, SAMSON of Jay, SAXL of Portland, SHIAH of Bowdoinham, SIROIS of Caribou, STEVENS of Orono, TOWNSEND of Portland, VOLENIK of Sedgwick, WATSON of Farmingdale, Senators: CLEVELAND of Androscoggin, FAIRCLOTH of Penobscot, McCORMICK of Kennebec, PARADIS of Aroostook, RAND of Cumberland)

Legal and Veterans Affairs

Bill "An Act to Prohibit Fairs from Restricting Simulcasting at Off-track Betting Parlors" (H.P. 964) (L.D. 1373) (Presented by Representative VIGUE of Winslow) (Cosponsored by Senator CAREY of Kennebec and Representatives: DiPIETRO of South Portland, GUERRETTE of Pittston, KEANE of Old Town, LEMONT of Kittery, RICKER of Lewiston)

Bill "An Act to Require That Campaign Finance Reports Be Archived" (H.P. 968) (L.D. 1377) (Presented by Representative GERRY of Auburn) (Cosponsored by Representatives: DAVIDSON of Brunswick, LUMBRA of Bangor, WATERHOUSE of Bridgton, Senator: RAND of Cumberland)

Bill "An Act Allowing an Initiative Petitioning Organization to Withdraw Its Ballot up to a Certain Time Period" (H.P. 969) (L.D. 1378) (Presented by Representative GERRY of Auburn) (Cosponsored by Representatives: KILKELLY of Wiscasset, O'NEAL of Limestone, UNDERWOOD of Oxford, Senator: RAND of Cumberland)

Bill "An Act to Make Minor Adjustments to the 1993 Apportionment Plan" (H.P. 977) (L.D. 1386) (Presented by Representative DEXTER of Kingfield) (Cosponsored by Senator BENOIT of Franklin and Representatives: BAILEY of Township 27, BARTH of Bethel, BIGL of Bucksport, BUNKER of Kossuth Township, CLARK of Millinocket, DEXTER of Kingfield, GOULD of Greenville, HEESCHEN of Wilton, LOOK of Jonesboro, MARTIN of Eagle Lake, PINKHAM of Lamoine, ROSEBUSH of East Millinocket, SAVAGE of Union, STROUT of Corinth, Senators: CASSIDY of Washington, MICHAUD of Penobscot, PINGREE of Knox) (Submitted by the Department of the Secretary of State pursuant to Joint Rule 24.)

Marine Resources

Bill "An Act to Strengthen the Sea Urchin Tender License" (H.P. 971) (L.D. 1380) (Presented by Representative CLOUTIER of South Portland) (Cosponsored by Senator: GOLDTHWAIT of Hancock) (Submitted by the Department of Marine Resources pursuant to Joint Rule 24.)

Natural Resources

Bill "An Act to Amend the Underground Oil Storage Facilities and Groundwater Protection Laws" (H.P. 978) (L.D. 1387) (Presented by Representative JACQUES of Waterville) (Cosponsored by Representatives: AHEARNE of Madawaska, WHEELER of Bridgewater)

State and Local Government

Bill "An Act to Repeal the Law Regarding Access to Property via Abandoned Roads" (H.P. 966) (L.D. 1375) (Presented by Representative JONES of Bar Harbor) (Submitted by the Judicial Department pursuant to Joint Rule 24.)

Bill "An Act to Make Any Recorded Tapes of Legislative Sessions or Legislative Hearings Public Information" (H.P. 967) (L.D. 1376) (Presented by Representative GERRY of Auburn) (Cosponsored by Representatives: DAVIDSON of Brunswick, GUERRETTE of Pittston, LUMBRA of Bangor, O'NEAL of Limestone, UNDERWOOD of Oxford, WATERHOUSE of Bridgton, Senator: RAND of Cumberland)

Bill "An Act to Establish Periodic Adjustments in the Mileage Reimbursements" (H.P. 974) (L.D. 1383) (Presented by Representative DAGGETT of Augusta) (Cosponsored by Representatives: BRENNAN of Portland, MITCHELL of Vassalboro)

Bill "An Act to Increase the Efficiency of Cumberland County Government Operations" (H.P. 975) (L.D. 1384) (Presented by Representative BRENNAN of Portland)

Taxation

Bill "An Act to Change Eligibility for the Elderly Low-cost Drug Program" (H.P. 963) (L.D. 1372) (Presented by Representative MURPHY of Berwick) (Cosponsored by Representatives: CAMERON of Rumford, CHICK of Lebanon, LEMONT of Kittery, MURPHY of Berwick)

Transportation

Bill "An Act to Allow for the Issuance of Motor Vehicle Titles at Branch Offices of the Bureau of Motor Vehicles" (H.P. 972) (L.D. 1381) (Presented by Representative LOOK of Jonesboro) (By Request) (Cosponsored by Representatives: BIGL of Bucksport, CAMERON of Rumford, CHICK of Lebanon, FARNUM of South Berwick, FISHER of Brewer, JONES of Pittsfield, JOY of Crystal, KEANE of Old Town, LANE of Enfield, MARSHALL of Eliot, MAYO of Bath, MURPHY of Berwick,

PINKHAM of Lamoine, POIRIER of Saco, STEDMAN of Hartland, WATERHOUSE of Bridgton, Senators: PINGREE of Knox, RUHLIN of Penobscot)

Sincerely,

S/Joseph W. Mayo
Clerk of the House

S/May M. Ross
Secretary of the Senate

Which was READ and ORDERED PLACED ON FILE, in concurrence.

The Following Communication: H.P. 990

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333

April 18, 1995

Dan A. Gwadosky
Speaker of the House
117th Legislature

Jeffrey H. Butland
President of the Senate
117th Legislature

Dear Mr. Speaker and Mr. President:

On April 18, 1995, eight Bills were received by the Clerk of the House.

Pursuant to the provisions of Joint Rule 14, these bills were referred to the Joint Standing Committees on April 18, 1995 as follows:

Education and Cultural Affairs

Bill "An Act to Extend the Life of Existing School Buildings" (H.P. 986) (L.D. 1394) (Presented by Representative CHARTRAND of Rockland) (Cosponsored by Representatives: CAMPBELL of Holden, DAVIDSON of Brunswick, DESMOND of Mapleton, GREEN of Monmouth, JOHNSON of South Portland, LaFOUNTAIN of Biddeford, LEMAIRE of Lewiston, LEMONT of Kittery, MITCHELL of Vassalboro, SHIAH of Bowdoinham, STEVENS of Orono, WINSOR of Norway, Senator: PINGREE of Knox)

Human Resources

Bill "An Act to Allow Smoking in One-room Establishments with Lunch Counters That Post Smoking Signs" (H.P. 984) (L.D. 1392) (Presented by Representative DORE of Auburn) (Cosponsored by Representatives: DAGGETT of Augusta, KONTOS of Windham)

Inland Fisheries and Wildlife

Resolve, to Standardize Certain Ice Fishing and Open Water Fishing Rules (H.P. 985) (L.D. 1393) (Presented by Representative UNDERWOOD of Oxford) (Cosponsored by Representatives: CAMERON of Rumford, CLARK of Millinocket, JACQUES of Waterville, MARSHALL of Eliot, ROSEBUSH of East Millinocket, TUFTS of Stockton Springs, WATERHOUSE of Bridgton, WINSOR of Norway, Senator: HALL of Piscataquis)

Judiciary

Bill "An Act to Clarify the Forcible Entry and Detainer Law" (H.P. 982) (L.D. 1390) (Presented by Representative DAGGETT of Augusta) (Cosponsored by Representatives: MADORE of Augusta, POULIN of Oakland, TRUMAN of Biddeford, Senator: MICHAUD of Penobscot)

Bill "An Act to Establish a Statute of Limitations for Claims against the Dalkon Shield Claimants Trust" (H.P. 983) (L.D. 1391) (Presented by Representative DAGGETT of Augusta) (Cosponsored by Representatives: DORE of Auburn, JONES of Bar Harbor, SAMSON of Jay, VOLENIK of Sedgwick)

Natural Resources

Bill "An Act to Amend Certain Laws Affecting the Department of Environmental Protection" (EMERGENCY) (H.P. 989) (L.D. 1397) (Presented by Representative GOULD of Greenville) (Cosponsored by Senator LORD of York) (Submitted by the Department of Environmental Protection pursuant to Joint Rule 24.)

State and Local Government

Bill "An Act to Provide for Sunset Review by the Legislative Joint Standing Committee of Jurisdiction" (H.P. 987) (L.D. 1395) (Presented by Representative JOY of Crystal) (Cosponsored by Representatives: AIKMAN of Poland, BIRNEY of Paris, DONNELLY of Presque Isle, JONES of Pittsfield, KNEELAND of Easton, LOOK of Jonesboro, STEDMAN of Hartland, WATERHOUSE of Bridgton, WINSOR of Norway, Senator: KIEFFER of Aroostook)

Bill "An Act to Abolish the Local Government Records Board and to Assign Its Functions to the Archives Advisory Board" (H.P. 988) (L.D. 1396) (Presented by Representative DAGGETT of Augusta) (Cosponsored by Senator: MICHAUD of Penobscot) (Submitted by the Department of the Secretary of State pursuant to Joint Rule 24.)

Sincerely,

S/Joseph W. Mayo
Clerk of the House

S/May M. Ross
Secretary of the Senate

Which was READ and ORDERED PLACED ON FILE, in concurrence.

Representatives: AULT of Wayne, DAMREN of Belgrade, DEXTER of Kingfield, GWADOSKY of Fairfield, HATCH of Skowhegan, KILKELLY of Wiscasset, McALEVEY of Waterboro, McELROY of Unity, MITCHELL of Vassalboro, Senators: BEGLEY of Lincoln, BUSTIN of Kennebec, CAREY of Kennebec, MILLS of Somerset)

The Following Communication: H.P. 995

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333

April 19, 1995

Dan A. Gwadosky
Speaker of the House
117th Legislature

Jeffrey H. Butland
President of the Senate
117th Legislature

Dear Mr. Speaker and Mr. President:

On April 19, 1995, four Bills were received by the Clerk of the House.

Pursuant to the provisions of Joint Rule 14, these bills were referred to the Joint Standing Committees on April 19, 1995 as follows:

Agriculture, Conservation and Forestry

Bill "An Act to Amend the Law Regarding the Lease of Submerged Lands" (H.P. 993) (L.D. 1404) (Presented by Representative KILKELLY of Wiscasset) (Cosponsored by Representative GOULD of Greenville and Representatives: CHARTRAND of Rockland, DEXTER of Kingfield, DiPIETRO of South Portland, GATES of Rockport, HARTNETT of Freeport, HEINO of Boothbay, JOYCE of Biddeford, KERR of Old Orchard Beach, KONTOS of Windham, LEMONT of Kittery, MARSHALL of Eliot, MITCHELL of Vassalboro, OTT of York, PEAVEY of Woolwich, REED of Falmouth, RICE of South Bristol, SIMONEAU of Thomaston, SPEAR of Nobleboro, TYLER of Windham, WINGLASS of Auburn, Senators: BUTLAND of Cumberland, GOLDTHWAIT of Hancock, PINGREE of Knox, SMALL of Sagadahoc)

Banking and Insurance

Bill "An Act to Amend the Laws Concerning Health Insurance" (H.P. 994) (L.D. 1405) (Presented by Representative MITCHELL of Vassalboro) (Cosponsored by Senator: McCORMICK of Kennebec) (Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.)

Judiciary

Bill "An Act to Promote Equity in Legal Advertising" (H.P. 991) (L.D. 1402) (Presented by Representative CHASE of China) (Cosponsored by

Legal and Veterans Affairs

Bill "An Act Concerning the Posting of Political Signs" (H.P. 992) (L.D. 1403) (Presented by Representative NICKERSON of Turner) (Cosponsored by Representatives: BERRY of Livermore, CLUKEY of Houlton, CROSS of Dover-Foxcroft, GOULD of Greenville, HICHBORN of Lagrange, MARSHALL of Eliot, STROUT of Corinth, Senator: LORD of York)

Sincerely,

S/Joseph W. Mayo
Clerk of the House

S/May M. Ross
Secretary of the Senate

Which was READ and ORDERED PLACED ON FILE, in concurrence.

SENATE PAPERS

Bill "An Act to Permit Consumer-owned Utilities to Seek Rate Reductions"

S.P. 522 L.D. 1420

Presented by Senator CARPENTER of York
Cosponsored by Representatives: GIERINGER, JR. of Portland, KONTOS of Windham, POIRIER of Saco, STONE of Bangor, TAYLOR of Cumberland
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.

Off Record Remarks

COMMITTEE REPORTS

House
Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Clarify the Licensing Authority of the Board of Trustees of the Maine Criminal Justice Academy"

H.P. 591 L.D. 801

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

Signed:

Senators:

BENOIT of Franklin
HALL of Piscataquis
O'DEA of Penobscot

Representatives:

CLARK of Millinocket
BUNKER, JR. of Kossuth Township
CLUKEY of Houlton
GOOLEY of Farmington
JOHNSON of South Portland
PEAVEY of Woolwich
THOMPSON of Naples
WATERHOUSE of Bridgton
WHEELER of Bridgewater

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Representative:

MCALLEVEY of Waterboro

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

Which Reports were **READ**.

The Majority **OUGHT TO PASS** Report **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

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

Senate

Ought to Pass As Amended

Senator **PARADIS** for the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Protect Forest Management as a Viable Land Use"

S.P. 25 L.D. 56

Reported that the same **Ought to Pass as Amended** by Committee Amendment "A" (S-81).

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-81) **READ** and **ADOPTED**.

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

Senator **ABROMSON** for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, to Revise the Reporting Date of the Home School Study Committee
S.P. 315 L.D. 896

Reported that the same **Ought to Pass as Amended** by Committee Amendment "A" (S-83).

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

The Resolve **READ ONCE**.

Committee Amendment "A" (S-83) **READ** and **ADOPTED**.

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

Senator **HATHAWAY** for the Committee on **TAXATION** on Bill "An Act Investing the Joint Standing Committee of the Legislature Having Jurisdiction over Taxation Matters with Exclusive Authority to Review Legislation Relating to Tax Policy"
S.P. 195 L.D. 504

Reported that the same **Ought to Pass as Amended** by Committee Amendment "A" (S-79).

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-79) **READ** and **ADOPTED**.

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

Senator **STEVENS, JR.** for the Committee on **TRANSPORTATION** on Bill "An Act to Revise the Maine Turnpike Authority's Powers with Respect to Commuter Tolls"

S.P. 139 L.D. 325

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-85)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-85) **READ** and **ADOPTED**.

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

Senator **BENOIT** for the Committee on **TRANSPORTATION** on Bill "An Act to Repeal the Sunset Provision Regarding Drug Recognition Technicians and Amend the Definition of Drugs in the Operating-under-the-influence Statutes" (Emergency) S.P. 332 L.D. 913

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-84)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-84) **READ** and **ADOPTED**.

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

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act to Amend the Maine State Retirement System Laws to Authorize the Buy-back of Time Served in the Peace Corps or VISTA Programs" S.P. 260 L.D. 696

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-82)**

Signed:

Senator:

RAND of Cumberland
MILLS of Somerset

Representatives:

HATCH of Skowhegan
CHASE of China
JOY of Crystal
LEMAIRE of Lewiston
SAMSON of Jay
STEDMAN of Hartland
TUTTLE, JR. of Sanford

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Senator:

BEGLEY of Lincoln

Representatives:

JOYCE of Biddeford
PENDLETON, JR. of Scarborough
WINSOR of Norway

Which Reports were **READ**.

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

On motion by Senator **KIEFFER** of Aroostook, Tabled until Later in Today's Session, pending the motion by Senator **RAND** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

Divided Report

The Majority of the Committee on **NATURAL RESOURCES** on Bill "An Act to Require the Department of Environmental Protection to Pay Attorney's Fees in Court Cases where the Department Does Not Prevail" S.P. 68 L.D. 156

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

Signed:

Senators:

LORD of York
RUHLIN of Penobscot

Representatives:

GOULD of Greenville
POULIN of Oakland
SAXL of Bangor
BERRY of Livermore
MERES of Norridgewock
SHIAH of Bowdoinham
DAMREN of Belgrade
NICKERSON of Turner
MARSHALL of Eliot

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-80)**

Signed:

Senator:

HATHAWAY of York

Representative:

GREENLAW of Standish

Which Reports were **READ**.

On motion by Senator **KIEFFER** of Aroostook, Tabled until Later in Today's Session, pending **ACCEPTANCE** of Either Report.

SECOND READERS

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

Senate

Bill "An Act to Make Revisions to the Uniform Interstate Family Support Act" (Emergency)
S.P. 286 L.D. 774

Bill "An Act to Allow the Workers' Compensation Board to Submit Legislative Proposals Annually"
S.P. 292 L.D. 790

Bill "An Act to Clarify the Use of the Power of Sale Foreclosures Regarding Limited Liability Corporations"
S.P. 320 L.D. 901

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

Sent down for concurrence.

At two minutes past ten in the morning, at the request of Governor Frank Keating, of Oklahoma, in honor of those who died in last week's bombing in Oklahoma City, a moment of silence was observed.

Senate As Amended

Bill "An Act to Create Additional Employment Opportunities in the Financial Services Industry by Allowing Financial Organizations to Charge Additional Finance Charges"
S.P. 18 L.D. 49
(C "A" S-70)

Bill "An Act Concerning Juveniles Hunting without Adult Supervision"
S.P. 163 L.D. 424
(C "A" S-67)

Bill "An Act to Increase the Time Period for Veterans Serving in Desert Storm Recognized in the Veterans Preference Program"
S.P. 213 L.D. 555
(C "A" S-69)

Bill "An Act Regarding Fees Assessed by the Maine Land Use Regulation Commission for Changes within a Development District"
S.P. 194 L.D. 503
(C "A" S-76)

Bill "An Act to Increase Compensation of Trustees of the Gray Water District"
S.P. 220 L.D. 562
(C "A" S-75)

Bill "An Act to Establish Landowner Recognition Day"
S.P. 233 L.D. 598
(C "A" S-66)

Bill "An Act to Clarify Credit Union Common Bond Requirements"
S.P. 235 L.D. 600
(C "A" S-71)

Bill "An Act Governing Privileged Communications between Victims of Domestic Violence and Their Advocates"
S.P. 261 L.D. 697
(C "A" S-78)

Bill "An Act to Allow the Workers' Compensation Board to Regulate Nonfinancial Aspects of Workers' Compensation Arbitration"
S.P. 300 L.D. 839
(C "A" S-73)

Bill "An Act Regarding Insurance Rates for Volunteer Drivers"
S.P. 309 L.D. 847
(C "A" S-74)

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

Sent down for concurrence.

Bill "An Act to Allow Plumbers to Install Electric Wiring on Electric Hot Water Heaters and Electric Water Pumps"
S.P. 30 L.D. 60
(C "A" S-65)

Which was **READ A SECOND TIME**.

On motion by Senator **CARPENTER** of York, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (S-65).

On further motion by the same Senator, Senate Amendment "A" (S-87) to Committee Amendment "A" (S-65) was **READ**.

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

Senator **RAND:** Thank you Madam President. I would like to pose a question through the Chair. The question is for Senator Carpenter. Could he please explain what his amendment does?

THE PRESIDENT PRO TEM: The Senator from Cumberland, Senator Rand, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from York, Senator Carpenter.

Senator **CARPENTER:** Thank you Madam President. Bills in the Second Reading deals strictly with technical amendments. I guess I can't really explain exactly what it does. It is very technical and does not change the intent of the bill.

On motion by Senator **CARPENTER** of York, Senate Amendment "A" (S-87) to Committee Amendment "A" (S-65) **ADOPTED.**

Committee Amendment "A" (S-65) as Amended by Senate Amendment "A" (S-87) thereto, **ADOPTED.**

Which was **PASSED TO BE ENGROSSED, as Amended** by Committee Amendment "A" (S-65) as Amended by Senate Amendment "A" (S-87), thereto.

Sent down for concurrence.

Bill "An Act to Prohibit State Legislative Employees from Using State Time or Property for Campaigning"

S.P. 169 L.D. 430
(C "A" S-68)

Which was **READ A SECOND TIME.**

On motion by Senator **CARPENTER** of York, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (S-68).

On further motion by same Senator, Senate Amendment "A" (S-86) to Committee Amendment "A" (S-68) **READ and ADOPTED.**

Committee Amendment "A" (S-68) as Amended by Senate Amendment "A" (S-86) thereto, **ADOPTED.**

Which was **PASSED TO BE ENGROSSED, As Amended** by Committee Amendment "A" (S-68) as Amended by Senate Amendment "A" (S-86), thereto.

Sent down for concurrence.

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

An Act to Amend the Laws Concerning Guardianship
S.P. 56 L.D. 85
C "A" (S-42)

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)

(See Action Later Today)

An Act to Amend the Laws Pertaining to the Return of Security Deposits and Nonpayment of Rent or Utility Charges
S.P. 152 L.D. 338
C "A" (S-43)

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
C "A" (H-73)

An Act to Establish a Minimum Percentage Markup for Alcoholic Beverages
H.P. 276 L.D. 380
C "A" (H-74)

An Act to Establish the Maine Commission on Community Service
H.P. 282 L.D. 386
H "A" (H-102) to
C "A" (H-57)

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
C "A" (H-76)

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)

(See Action Later Today)

An Act Relating to Municipal Clerks Who Chair Boards of Voter Registration
H.P. 410 L.D. 567

An Act to Amend Certain Laws Relating to the Collection of Property Taxes
H.P. 421 L.D. 578
S "A" (S-59)

An Act to Clarify Law Enforcement Relating to Junkyards and Automobile Graveyards
H.P. 427 L.D. 590
C "A" (H-75)

ENACTORS

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

Emergency

An Act Concerning the System of State Law Libraries

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

This being an Emergency Measure and having received the affirmative vote of 24 Members of the Senate, with No Senator having voted in the negative, and 24 being two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

On motion by Senator **HANLEY** of Oxford, the Senate **RECONSIDERED** its action whereby it **PASSED TO BE ENACTED**:

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)

(In House, April 25, 1995, **PASSED TO BE ENACTED**.)

(In Senate, April 26, 1995, **PASSED TO BE ENACTED**.)

On further motion by same Senator, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

On motion by Senator **HANLEY** of Oxford, the Senate **RECONSIDERED** its action whereby it **PASSED TO BE ENACTED**:

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

(In House, April 25, 1995, **PASSED TO BE ENACTED**.)

(In Senate, April 26, 1995, **PASSED TO BE ENACTED**.)

On further motion by same Senator, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

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 25, 1995) matter:

An Act Concerning Municipal Shellfish Conservation Program Penalties H.P. 194 L.D. 253

Tabled - April 13, 1995, on motion by Senator **KIEFFER** of Aroostook.

Pending - **PASSAGE TO BE ENACTED**.

(In House, April 12, 1995, **PASSED TO BE ENACTED**.)

On motion by Senator **BUTLAND** of Cumberland, the Senate **SUSPENDED THE RULES** for the purpose of reconsideration.

On further motion by same the Senator, the Senate **RECONSIDERED** its action whereby the bill was **PASSED TO BE ENGROSSED**, in concurrence.

On further motion by the same Senator, Senate Amendment "A" (S-77) **READ** and **ADOPTED**.

Which was **PASSED TO BE ENGROSSED**, As Amended by Senate Amendment "A" (S-77) in **NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the second Tabled and Specially Assigned (April 25, 1995) matter:

Bill "An Act to Allow Liens on Claims Not Sounding in Tort" S.P. 144 L.D. 330

Tabled - April 13, 1995, on motion by Senator **MILLS** of Somerset.

Pending - **PASSAGE TO BE ENGROSSED**.

(RECALLED FROM THE GOVERNOR'S DESK pursuant to Joint Order S.P. 481.)

(In Senate, April 13, 1995, Rules suspended and RECONSIDERED PASSAGE TO BE ENACTED. Under further suspension of the Rules, RECONSIDERED PASSAGE TO BE ENGROSSED.)

On motion by Senator KIEFFER of Aroostook, Tabled 1 Legislative Day, pending PASSAGE TO BE ENGROSSED.

The Chair laid before the Senate the third Tabled and Later Today Assigned (April 25, 1995) matter:

SENATE REPORTS from the Committee on LABOR on Bill "An Act to Permit an Employer to Offer a Compressed Time Workweek to Consenting Employees" S.P. 188 L.D. 496

Majority - Ought to Pass As Amended by Committee Amendment "A" (S-72) (7 members)

Minority - Ought Not to Pass (6 members)

Tabled - earlier in the day by Senator LAWRENCE of York.

Pending - the motion by Senator BEGLEY to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report.

(In Senate, April 25, 1995, Reports READ.)

On motion by Senator KIEFFER of Aroostook, Tabled until Later in Today's Session, pending the motion by Senator BEGLEY of Lincoln to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report.

Senator LAWRENCE of York 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 BUTLAND of Cumberland, RECESSED until the sound of the bell.

After Recess

Senate called to order by the President Pro Tem.

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

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 Modify the Licensure Act for Substance Abuse Counselors" H.P. 1008 L.D. 1419

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.

Resolve, To Permit Aides to Work under the Direct Supervision of Speech Therapists in Public Schools H.P. 1003 L.D. 1414

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

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

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

Resolve, to Create Access to Child Care
H.P. 1002 L.D. 1413

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

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

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

Bill "An Act to Establish Air Medical Services in
the State in Conjunction with the Maine Army National
Guard"

H.P. 1004 L.D. 1415

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

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

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

Resolve, Directing the State Planning Office to
Improve the Coordination of State Agencies and
Resources Involved in Projects Having an
Environmental Significance

H.P. 1005 L.D. 1416

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

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

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

An Act to Restrict Application of the Maine Tree
Growth Tax Law"

H.P. 1006 L.D. 1417

Bill "An Act to Fund Drug Abuse Resistance
Education (DARE) by Increasing the Tobacco Tax by 1.5
Mills"

H.P. 1007 L.D. 1418

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.

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on NATURAL RESOURCES on Bill "An
Act to Repeal the Motor Vehicle Emission Inspection
Program" (EMERGENCY)

H.P. 54 L.D. 48

Reported that the same Ought to Pass as Amended
by Committee Amendment "A" (H-143).

Comes from the House with the Report READ and
ACCEPTED and the Bill, under suspension of the Rules,
was PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE
AMENDMENT "A" (H-143).

Which Report was READ and ACCEPTED, in
concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-143) READ and ADOPTED,
in concurrence.

Under suspension of the Rules, READ A SECOND TIME.

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

Senator HATHAWAY: Thank you Madam President. I
would just like to say a few words as we get ready to
repeal the emissions testing program. I can
remember, back in late June of last year, in Roger
Campagna's service station, in his garage on the
first Sunday, when he gathered a group of good
Americans together to discuss this issue, and all
that they have done since then. I think we should
honor Roger, and his group, for the work that they
have done because it certainly has reached, I think,
even beyond the boundaries of the State of Maine, in
fact, it has had an effect all across this country.

I have learned a lot since that point, and before we vote on this I would just like to point out a couple of things before everybody votes for this repeal. I do support the repeal because I think, as everyone now agrees, including in testimony in the last couple of weeks, the EPA and the DEP, that the problem that we are looking at solving in southern Maine, according to the monitors in southern Maine, we were in non-attainment of our ozone restrictions for a total of two hours in one day in all of 1994. I think it is agreed by all parties that between 60% and 90% of this problem is transported across our state lines from other states to the south and west of us. Because the industry in this State has been so efficient and willing to help this problem, and the investment that they have made, two-thirds of our 15% reduction has already been achieved. According to EPA studies we have learned that the ozone that is generated in this State, 92% of it is caused by our trees, which we value so dearly. So, that is the problem that we are trying to solve, two hours in one day of one year.

It should be noted, before we do vote on this repeal, that we do have two requirements, according to the Clean Air Act. One is that we have to have a 15% reduction plan in place by July of this year. The other is, according to the Clean Air Act, that the greater Portland area in Cumberland County must also, by law, have some form of automobile emissions testing. I want everybody to be aware that after this emissions testing bill is repealed, we still face sanctions in April of next year from the EPA for not having an emissions testing program in place. So, while we will repeal the test, we do not rid ourselves of the EPA sanctions. According to the EPA, the sanctions that they will probably place on us would be implementing the program that we are now getting ready to repeal. So, I just want everyone to be aware of the sanctions that we do face. Of course, if we were not to institute the other 15% reduction plan, we would also face other sanctions, separate from the emissions testing sanctions. That issue, of course, we will be debating in the next few weeks. I want to point out, also, that in November of 1994, a trial was set for a lawsuit from the State of Missouri, suing the EPA over the threat of sanctions. I agree with their charge, that these threats of sanctions by the EPA violates the tenth amendment and the spending clause of the Constitution of the United States. In the next few weeks, I will be urging this body to have our State join that lawsuit, because as I said, the problem is two hours of one day in one year, and I don't think that we should burden the people of this State with the terrific financial burden that the new plan is going to place on them, nor do I think we should burden them with the health hazards that potentially could harm our children without further study. Those discussions will be, I hope, brought forth to the public and to this Chamber in the next few weeks, so that we can eventually release ourselves from being hostages of the EPA. Thank you Madam President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator Lord.

Senator **LORD:** Madam President, my Learned Colleagues. The bill that we are actually working on is L.D. 48, which is a bill that was introduced by

Representative Luther, from Oxford County. We really have two bills here, this one here that we are working on now, is an emergency bill and the reason we are having both bills is because of the fact that if we don't pass this emergency bill today, next Tuesday we will go back to testing cars. So, that is the reason why we are working on L.D. 48. The bill pertaining to the emissions is the next supplement that we will be taking up. I agree with the good Senator from York, Senator Hathaway, that there is a lot of problems that I would like to state once more to all you people, to make sure you realize it. The fact is, the law says, right in writing, that the states, the twelve northeast states, must reduce their pollution generated within the state. We cannot take any credit for any pollution generated out of the state. This 15% must come from pollution generated within the state. That is what has been the problem, that is what has been hard to come by, and that is what we have been working on. I hope that we would pass this unanimously. Thank you.

Which was **PASSED TO BE ENGROSSED, As Amended**, in concurrence.

Under suspension of the Rules, ordered sent forthwith to the Engrossing Department.

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **NATURAL RESOURCES** on Bill "An Act to Repeal the Motor Vehicle Emission Inspection Program"

I.B. 2 L.D. 716

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-144)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill, under suspension of the Rules, was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-144)**.

Which Report was **READ**.

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

Senator **RUHLIN:** Thank you Madam President, Honorable Senators of Maine. What we are doing, so there won't be any confusion, the previous action of this body was a response to an emergency legislation to prevent the reinstatement of car testing come May

first. This particular piece of legislation is the important one that deals with the successful petition drive of 70,000 Maine citizens who said that they wanted to have some citizen input on the emissions testing program, as it had been instituted in the State of Maine. That is what this does. This is in response to that petition drive, and it does, in fact, repeal the law that that petition drive was initiated to bring about on a vote. It makes the referendum not necessary now in November. It clears the table for the State to proceed, and I hope proceed with a sense of good feeling on all parts that everybody is doing their best to accomplish an end result. This does not mean that Maine is retreating from a goal to clean up its own, and I repeat, its own air emissions generated through the use of automobiles. It says that we can proceed, and this time, hopefully, proceed with more caution, having learned a lesson from, I think number one, a very incautiously following last time, on blind faith and some very poor administrative procedures in private industry. I think this allows us to recognize and learn a lesson from those, to proceed with more caution, and to also take advantage of increased technological updates that have been forthcoming in the last year, and hopefully will continue to be forthcoming. We still have problems, we still have a long way to go, but I think now we can proceed with the passage of this, to repeal the existing law in response to that petition drive. I think we can now proceed in good faith on behalf of all people. Thank you.

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

Senator **CAREY:** Thank you Madam President, Members of the Senate. Initiated petitions are, by the Constitution, unchangeable. If we change anything they have to go out to the public. There is an amendment, that the Committee put on this, which does not affect the body of the initiated bill, all it does is put on a fiscal note, and I think that the Legislative Record should so show that this does not touch the body that was presented to that Committee.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-144) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**, As Amended, in concurrence.

Under further suspension of the Rules, ordered sent forthwith to the Engrossing Department.

On motion by Senator **CAREY** of Kennebec, **RECESSED** until 5 o'clock in the afternoon.

After Recess

Senate called to order by the President Pro Tem.

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

COMMITTEE REPORTS

House

Ought to Pass

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Allow the Maine Technical College System to Grant Utility Easements"

H.P. 574 L.D. 779

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**.

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act Establishing Education as a Priority for the State by Expediting Consideration of the Education Budget"

H.P. 707 L.D. 964

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 **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Clarify the Laws Regarding the Sale of Recreational Vehicles on Sunday"

H.P. 163 L.D. 211

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (H-133).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-133).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-133) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Define a "Demonstrator" under the Board of Barbering and Cosmetology"

H.P. 259 L.D. 361

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (H-109).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-109).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-109) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act Concerning Fraudulent Redemptions"

H.P. 512 L.D. 700

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (H-134).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-134).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-134) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Encourage Collaboration between Local School Units"

H.P. 248 L.D. 350

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (H-110).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-110).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-110) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Allow a School District to Print the District's Name on School Buses"

H.P. 299 L.D. 403

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (H-111).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-111).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-111) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act Concerning Extracurricular Activity Eligibility for Students Identified under the Federal Individuals with Disabilities Education Act"

H.P. 544 L.D. 740

Reports that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-137)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-137)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-137) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act Concerning the Liability of Corporate Clerks"

H.P. 381 L.D. 516

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-138)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-138)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-138) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **LABOR** on Bill "An Act to Amend the Workers' Compensation Laws to Provide an Exemption from Coverage Requirements for Nonresident Employees"

H.P. 12 L.D. 6

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-131)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-131)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-131) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **LABOR** on Bill "An Act Concerning the Offset of Workers' Compensation Benefits by Social Security Benefits"

H.P. 226 L.D. 304

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-136)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-136)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-136) **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 Repeal the Provision of Law Voiding a Lease for Premises Defined as a Common Nuisance"

H.P. 158 L.D. 205

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-127)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-127)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-127) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **NATURAL RESOURCES** on Bill "An Act to Clarify the Laws Regarding the Location of Transfer Stations on Islands"

H.P. 176 L.D. 224

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-108)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-108)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-108) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **NATURAL RESOURCES** on Bill "An Act Regarding the Expansion of Certain Waste Disposal Facilities"

H.P. 326 L.D. 447

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-116)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-116)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-116) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **NATURAL RESOURCES** on Bill "An Act to Amend the Site Location of Development Laws Relating to Former Military Bases"

H.P. 393 L.D. 528

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-106)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-106)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-106) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **NATURAL RESOURCES** on Bill "An Act to Change the Definitions of "River," "Stream" and "Brook" in the Environmental Laws"

H.P. 452 L.D. 618

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-107)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-107)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-107) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **TAXATION** on Bill "An Act to Clarify the Tax-exempt Status of Municipally Owned Solid Waste Disposal Facilities"

H.P. 286 L.D. 390

Reported that the same **Ought to Pass** as Amended by Committee Amendment "A" (H-125).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-125)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-125) **READ** and **ADOPTED**, in concurrence.

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

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

ENACTOR

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

Emergency

An Act to Stop the Alewives Restoration Program in the St. Croix River

H.P. 385 L.D. 520
C "A" (H-78)

This being an Emergency Measure and having received the affirmative vote of 26 Members of the Senate, with No Senator 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.

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

COMMITTEE REPORT

Senate

Ought to Pass

Senator **BENOIT** for the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Extend the Time Period for a District Attorney to File a Petition in Order to Allow Time for Juveniles to Fulfill All Conditions of Informal Adjustment"

S.P. 326 L.D. 907

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

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

The Bill **READ ONCE**.

The Bill **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 Repeal the Motor Vehicle Emission Inspection Program

I.B. 2 L.D. 716
C "A" (H-144)

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Madam President, Men and Women of the Senate. I just want to bring to your attention that this bill does have a fiscal note attached to it. The fiscal note is of an indeterminate amount. Our office was not able to pinpoint a figure as to what the cost associated with the repeal of the automobile inspection program would be. Normally this would be placed on the Special Appropriations Table and, because it also deals with Highway funds, it would also be placed on the Special Highway Appropriations Table. Both the Appropriations Committee and the Transportation Committee have met on this issue and both Committees have voted to have this item not be placed on either of those Tables.

Which 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 Repeal the Motor Vehicle Emission Inspection Program

H.P. 54 L.D. 48
C "A" (H-143)

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Madam President, Men and Women of the Senate. Once again, I rise just to bring to the attention of the Chamber that this bill, too, has a future cost, and it is one that is not able to be calculated as to whether or not the suit is won by the contractor of the automobile inspection program. This bill would normally be placed on both the Special Appropriations Table, as well as the Highway Table. Once again, this matter was dealt with by both the Appropriations Committee and the Transportation Committee. Both Committees have voted and agreed that it not be placed on the Special Appropriations Table.

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with No Senator 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

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

SENATE REPORTS from the Committee on **LABOR** on Bill "An Act to Amend the Maine State Retirement System Laws to Authorize the Buy-back of Time Served in the Peace Corps or VISTA Programs"

S.P. 260 L.D. 696

Majority - Ought to Pass As Amendment by Committee Amendment "A" (S-82) (9 members)

Minority - Ought Not to Pass (4 members)

Tabled - earlier in the day by Senator **KIEFFER** of Aroostook.

Pending - the Motion by Senator **RAND** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

(In Senate, April 26, 1995, Reports **READ**.)

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

Senator **BEGLEY:** The desire to recognize those people who have served in the Peace Corps is certainly laudible, and almost all people would agree. The bill has been amended to eliminate the VISTA program. The real concern for one or two was the inability to understand how much this would tax the unfunded liability of retirement. There is no way to know, at this state, how many people would apply for the buy-back time. So, this is one of the major concerns of the bill, and one of the reasons why I would vote against it.

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

Senator **HARRIMAN:** Thank you Madam President. I was very curious to hear my good colleague from Lincoln, Senator Begley, mention the unfunded liability. I wonder if I might pose a question through the Chair. I was wondering if someone could more fully explain what the implications are, if this legislation passes, to adding to the unfunded liability to the Maine State Retirement System.

THE PRESIDENT PRO TEM: The Senator from Cumberland, Senator Harriman, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Cumberland, Senator Rand.

Senator **RAND:** Thank you Madam President. It is my understanding that the Committee made their desire to not have this bill affect the unfunded liability. We made it known to the drafter of the amendment, and it is my belief that those concerns were addressed. The members who would be allowed to purchase time would have to pay the full actuarial accrued amount that the system put forth, and that would eliminate any impact on the unfunded liability. If that is not the case, I would be interested in seeing if that is not the case. Thank you.

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

Senator **BEGLEY:** Thank you Madam President. I am not certain to the degree of that. I am led to believe that the unfunded liability would not be accrued because if the accrued rate were asked for, the person buying it back would probably not receive any benefits at all for having had the two years, because the accrued rate would be such a cost to them, that I am not sure that was part of it. That is why the unfunded liability, without the accrued rate, would be a liability in future years, because we will have to pick up that portion that was not paid for originally. How much that would be would depends entirely on how many people applied.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator McCormick.

Senator **MCCORMICK:** Thank you Madam President. I, too, would like to pose a question through the Chair. Do any of the Senators who were on the Committee have in their folder, or remember, the sheet of paper that we always get from the Maine

State Retirement System about whether there is a cost to the system or not by any bill? Like the one that the good Senator from Cumberland, Senator Rand, is pulling out. It seems to me like this should not be a question that is up to debate. It is a very empirical question. When I served on this Committee, whenever we saw the phrase, and I am scrambling to look it up here in the law, but whenever you see the phrase "the actuarial equivalent of" that means there is no cost to the system. So, I would love to have someone respond to that. Thank you.

THE PRESIDENT PRO TEM: The Senator from Kennebec, Senator McCormick, 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: Men and Women of the Senate. If I may take a crack at it, the Committee amendment, which is S-82 in your hymnal, is that we voted to allow people who have served in the Peace Corps to purchase time by paying the equivalent value of their own contributions, but that is certainly not the employer's share. There are certain limitations on it, as you will see. One is that you must be in State service for at least fifteen years, so it only applies to fairly senior people in the State Retirement System. Secondly, you are able to purchase, on that basis, only two years of your time. I can't recall exactly, but I think that is roughly parallel to what we permit for people who have had military service. There is an indeterminate impact on the unfunded liability, because the State share needs to be actuarially taken care of, and that is done through the unfunded liability, but it is very difficult to get a handle on. We had some sense, in the Committee, that there would be fairly few people taking advantage of this and that the unfunded liability would be comparatively small. But, I am talking only in vague terms because we were not able to get specifics of the sort that we are talking about. But, I think there is an impact, our anticipation was that it would not be substantial.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator HANLEY: Thank you Madam President, Men and Women of the Senate. First, let me state that I do not profess to be an expert in the Maine State Retirement System, as far as the unfunded liability and the impact. I do know when to go to the people who do, and I have contacted the Office of Fiscal and Policy Review, and they have advised me that this will have a cost, although they don't know how many people will take advantage of it. If this were to pass it would have to be placed on the Special Appropriations Table to calculate exactly what that cost would be to the State and to the General Fund.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by Senator RAND of Cumberland to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report.

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.

21 Senators having voted in the affirmative and 9 Senators having voted in the negative, the motion by Senator RAND of Cumberland to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, PREVAILED.

The Bill READ ONCE.

Committee Amendment "A" (S-82) READ and ADOPTED.

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

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

SENATE REPORTS from the Committee on NATURAL RESOURCES on Bill "An Act to Require the Department of Environmental Protection to Pay Attorney's Fees in Court Cases where the Department Does Not Prevail"
S.P. 68 L.D.156

Majority - Ought Not to Pass (11 members)

Minority - Ought to Pass As Amendment by Committee Amendment "A" (S-80) (2 members)

Tabled - earlier in the day by Senator KIEFFER of Aroostook.

Pending - ACCEPTANCE OF EITHER REPORT Report.

(In Senate, April 26, 1995, Reports READ.)

Senator LORD of York moved that the Senate ACCEPT the Majority OUGHT NOT TO PASS Report.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator Lord.

Senator LORD: Thank you Madam President, Men and Women of the Senate. Assistant Attorney General, Jeff Bedeau, said all lawyers in Maine dream about a bill like this. This is a bill that would say that if they go to court, and the defendant wins, the State would pay the defendant's attorney fees, up to \$10,000.00. The amendment sets a price of \$10,000.00. It is going to have quite a fiscal note on it, no question about it, I would say probably half a million, at least. The feeling of the Committee was this is a little bit on the steep side. They want to have a level playing field. Why don't we put an amendment on that says that if the defendant loses he will pay not only his own attorney fees, but he will pay the State cost. If you want to have a level playing field this is what you should do. I urge you to accept the Majority Ought Not to Pass Report.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator HANLEY: Thank you Madam President, Men and Women of the Senate. I rise to ask you to vote against the motion that has been posed by my good friend and colleague from York, Senator Lord. Some would say that the defendant is paying two bills already. Not only his, or her, bill, but through his, or her, tax dollars they are also paying for the prosecution. In reading through the amendment that has been posed by the Minority Report, it clearly spells out that there will be a cap of \$10,000.00. Now, if there are enough cases to raise the cost to the Department of Environmental Protection to a half a million dollars, then maybe the proper way to address this issue is to have an amendment to the bill which would require the Department to find those funds within their operating budget. So they would not come back to the Legislature for those funds. Yes, I am an attorney in a small town in Oxford County, and yes, our office has represented individuals against the DEP. In fact, the last one our office handled on a pro bono basis, for an indigent client who had tried to work with the Department to remediate a problem that he did not have the financial wherewithal to, and yet the Department continued to push the issue, and, in fact, took this individual to court. Fortunately, the court found in favor of our client, but it was only after a lot of State expense had been utilized. I can't help but think if this law had been in place would the Department have continued to push the issue against an individual who did not have the financial wherewithal, who did want to comply, but due to the circumstances was not able to. There are other bills in this Legislature that some other Legislators are pushing as far as for the English Rule, where this would be the case in any litigation. The losing party, the plaintiff who brought the suit, would have to pay the defense fees. That concept has been brought before this legislature before and I have voted against it. But, in this instance, I think that concept could be put to good use. All of us here in this Chamber have enough stories of incidents within our own districts, of the Department pushing issues, bringing people into court for items which should be settled outside, and not to require the people of the State of Maine to pay double attorney fees. Not only their own, but also through their taxes, the attorney fees for the Department. I would have to disagree with the good Senator from York, and I think this does level the playing field a little. It sets a cap of \$10,000.00 as far as for the max that could be collected. I think it will cause the Department to think twice before pursuing some of these claims which they are not absolutely sure, or relatively sure, that they will be successful on. I think it provides just the appropriate balance to still provide protection for the people of the State of Maine, those who want to protect our environment, but also to protect those individuals who are trying to be overtaken by the Department and pursuing it through the court system. I think it is an idea whose time has come and I would like to have the Legislature give the DEP an opportunity to work under this constraint, for at least a few years. I would be willing to see an amendment as far as to either sunset this and also to require the Department to find any of those costs within their operating budget. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator Carpenter.

Senator CARPENTER: Thank you Madam President, Women and Men of the Maine Senate. It seems to me that there is something awful wrong with this premise, or the thinking of being willing to pay attorney's fees for one of your own Departments. Let's put it down to a business level, where you own a business and one of your departments is not operating correctly, so you are saying "I will be willing to pay \$10,000 in attorney fees if a judgement goes against my own department." It seems to me there has got to be a better way of solving the problem. I have as many stories about where the DEP has made a mistake as anybody else has. I really feel that they are getting a little better. There have been less mistakes and they haven't been as serious, that I have been involved in, but I can't in any way get it through my head why I should be paying to protect, or to hurt, a department of my own. I believe there has to be a way of getting at the leadership of the DEP, and their staff, through training or changing or hiring or firing or something that punishes them, not everybody in the State who pays taxes. I urge you to vote with the Majority Report. Thank you.

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

Senator MILLS: Madam President, Men and Women of the Senate. I have somewhat mixed feelings about the proposal that is on the floor. I need to share a few observations with the Senate from my own experience. My sense is that this is a very, very weak counter to the problem that we see altogether too frequently. The problem that we see, in the woods operations that I am familiar with, and the agriculture operations, we frequently see a relatively trivial violation. A stream crossing permit, where there is a little silt flowing down some brook that eventually leads to a trout stream, and the condition is allowed to exist for several months. A notice is given and for whatever reason the landowner, or the woods operator, or the farmer, isn't too swift about correcting it, or in some cases the cost of correction is rather significant. For each day of violation the fine, the maximum fine, is \$10,000.00 per day for every day that you allow the violation to exist. Listen, when DEP comes down on you for violating one of their rules or regulations, a rule that is not made by this body but under the Administrative Procedures Act, let me tell you you haven't seen power until you have seen the force of the State coming down on you for letting a little silt flow down the wrong channel or brook that you are on. We have created a monster that comes into court and never loses. If they would lose and pay an attorney's fee once in a while, but they won't lose, they don't lose, they never lose, I have never seen a case that I thought I could win in my best day in court against the DEP, because they have got you. They are going to get you on something, even if they accuse you of six things and they get you one, they have won. They have prevailed, so you don't get your attorney's fees if they have won on even one point. I just view this effort as somewhat futile and I think I will probably vote against it for that reason, but not because I don't believe there is a problem. I think there is a significant problem.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Madam President. Just for clarification for the good Senator from Somerset, we were successful. We were successful and one of the main reasons was because our client was indigent and did not have the financial wherewithal to comply with the requirements that the Department had imposed. In that case, since it was pro bono, no attorney's fees had been assessed and none would be collected. I guess I just differ with the good Senator from Somerset, I think that whereas the Department has gotten better, and I would concur with the good Senator from York, Senator Carpenter, that they have gotten better, I think this is another positive step for the Legislature to take to tell the people of the State of Maine, "Yes, we have heard your concerns, and this is one area we think we can go to to address those."

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator Lord.

Senator **LORD:** Thank you Madam Chair and my Learned Colleagues. We have been working, in the Committee, not only the last session, but also in this session, on mediation. I think we are going somewhere in helping through mediation, where the plaintiff can sit down with the DEP and try to mediate it out. This is working very good in some cases. Of course you have the consent agreement, a lot of people don't agree with the consent agreement, and usually when you go into a consent agreement the DEP wants around \$5000 for somethings and when you are done you might get it down around \$2500 or \$2000. So, there is methods of getting at least some of it down but most of the time, whether you want to admit it or not, they are pretty definite on what they do. Maybe it isn't as bad as you think it is and not as bad as I think it is, but if you created something that is not in line with the rules and regulations, you are going to get knicked and that is all there is to it. I think, as the Assistant Attorney General said, before they put the \$10,000 on, some of these lawyers could keep this going for months and months and running up a big bill. This \$10,000 is best but I tell you right now, you are going to have quite a fiscal note on it and I think when the good Senator from Oxford County sees the fiscal note he might even faint. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Franklin, Senator Benoit.

Senator **BENOIT:** Thank you Madam President. I am asking my colleagues today not to vote the ought not to pass report. Contrary to what the good Senator, Senator Mills from Somerset, indicates, State government is not perfect. Not by a long shot. For fifteen years on the District Court, processing 10,000 to 15,000 cases a year, I can tell you the State brought some cases that they lost. They were not perfect. Unfortunately we know we live in a sue-happy society and, not daily, but perhaps monthly we are seeing states wrestling with the problem, and business trying to cap damages and trying to assess council fees to those who bring frivolous cases, to pay the other side's counsel. Believe me there is

nothing that sponsors sensibility and responsibility like the awareness of the fact that if you bring a meritless piece of litigation it is going to earn you the sanction of paying the counsel fees of the other side. We hear some talk about operating State government like we operate a business, and what is sauce for the goose is sauce for the gander. I think it is a very meritorious effort that is being made to limit damages and to try to curtail lawsuits that are brought without merit. I think we should join the government in this effort to make it fair, and so I feel strongly that we should pass this type of legislation. For what is there to fear, if Senator Mills is right, and the Departments never lose? They will never pay a dime under this legislation. I am thinking of the case where they bring a case to court without merit, and do lose, they should pay like anyone else in fairness. Thank you.

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

Senator **HATHAWAY:** Thank you Madam President, Ladies and Gentlemen of the Senate. I would like to say that I agree with almost everything that has been said in this discussion. As the good Senator from Oxford, Senator Hanley, said, this is a think twice bill. It won't solve all the problems, but perhaps it will allow DEP to have some thought before they do carry forth their efforts. I agree, also, with what the good Senator from Somerset, Senator Mills, said, that we have created a monster. Perhaps it is futile, but I just want to speak for a second on how futile it really is, because we are not talking here about the big paper companies or the big industries in this State, who have people on their payrolls to follow, every day, legislation that comes forth and is going to go into the Natural Resources Committee and eventually come to this floor, nor that have legal counsel of their own on staff that can protect them from these rules and regulations. If ever there was a little-guy bill, a bill to protect the small business owner and the small landowner in this State, this is a bill that will give us a foot in the door. The fact is that 90% of the alleged violations brought by DEP result in consent agreements. Ten percent go to trial and, in fact, according to their testimony, they never do lose a case. If they never do lose a case, as has been pointed out, then we will never spend any money by passing this bill. The problem, however, is the other 90% of the consent agreements, of which we hear everyday in this Committee stories of small business owners and small landowners who are intimidated by the monster that we have created. When you are faced with a problem such as the good Senator from Somerset, Senator Mills, suggested, which seem to be insignificant at the time, but are facing a \$10,000 a day fine, and the person alledging that violation has all the power, has made the rules and regulations and can carry those out, and can stand there and tell you they can fine you \$20,000 for this or if you want to agree to this consent agreement it can be lowered to \$10,000. If you don't agree with that, and you want to go to court, fine, because we never do lose. If you are faced with that type of situation I don't think that many people, in fact probably none, will decide to challenge the Attorney General's Office of this State on such an alledged violation. We have limited it to \$10,000 so it will apply only to those small business

people and small landowners. It is a small attempt to level the playing field, there is a lot of work left to be done. But, I think it will send a signal of hope to people that perhaps we are listening to their problems, and that they do have a little hope in that we can resolve those problems. So, I do urge you to vote against the Ought Not to Pass report. Thank you.

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

Senator **RUHLIN:** Thank you Madam President, Honorable Senators of Maine. I think democracy is alive and well tonight, and the dream that the good Senator from Cumberland mentioned earlier, I think is alive and well when you stop and think about it. Where else can you propose to take the public treasury to pay alleged violators of public law? What a wonderful land! This is great! If we take this principle and carry it out, because environmental laws have the same force and impact of other laws, we could do it for drunk drivers. We could do it for burglars. We could do it for everybody. If we go into court, and don't prove our case, or lose our case on a technicality, let us, the public, pay for inconveniencing our fellow citizens for allegedly not following the laws that we pass. This is great. I think this is a wonderful democracy and this is just what we need, but at the same time there might be a down side to it. Presently, most of the settlements that are made by DEP are done in a way that never goes to court. Ninety-eight percent of them never go to court, they are done through sitting around a table and negotiating settlements. Now, what desire would I have to negotiate with you if I know that you are going to pay for my attorney to go to court? Do you think that I am going to negotiate a settlement with you? No way. I'm going to go to court. So, what will happen is I won't participate in your negotiations, and rather than having 98% of your cases negotiated rather than go to court, we will probably come up with something like at least 50% that go to court. Why shouldn't they? We're going to pay the attorney's fees if there are any technical violations or if we make a mistake on a technicality. So, that is one thing that we can do, and we can keep democracy alive and well that way. Or, another thing that we can do is if we see bad law, if we see a law that is being enforced poorly, if we see regulations being enforced the way we don't like those regulations being enforced why don't we change the law? Why don't we void those regulations? If we want to make positive changes why don't we do that, rather than pay alleged violator's attorney fees. Thank you.

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

Senator **HATHAWAY:** Thank you Madam President, Ladies and Gentlemen of the Senate. I would like to point out that the bill requires DEP to pay attorney's fees only where the Department does not prevail. Second of all, I agree that this is a great democracy, and this debate shows it tonight, but I certainly hope that someone who is an alleged violator goes to court and is found not to be in violation, is deemed to be innocent and not tagged an alleged violator after that fact. I would gladly

attach an amendment to change some of these rules that the DEP has placed upon us that this Legislature has yet to verify by vote, and to cut, and I hope that the good Senator from Penobscot will join us in cutting the budget in our Committee. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Madam President, Men and Women of the Senate. Just to respond to the good Senator from Penobscot. You said it quite clearly, it is alleged violators. Those who have proven, in our court, to be innocent and not to be guilty of the violations the Department has proposed against them. Only those that are proven innocent by the court will receive that compensation. If we are going to trust that responsibility to determine whether or not a violation has occurred to our court, and if we are going to trust the ruling they have come down with, then I think there is a big difference. I think the message that I have received, and why this is in front of us and not to have burglars who are found innocent by our courts to have their legal fees covered, is because in my district, when I have gone door-to-door, the people don't say "I burgled your neighbor, Mr. Jones, or they said I burgled his house, and I was found innocent and I think my attorney fees should be taken care of." I haven't had that hew and cry to me. Yes, democracy is alive and well when we, as legislators, listen to our people back home, when they say there is a problem inherent in the way the Department is prosecuting cases against loggers, landowners, and as the good Senator from Somerset said, the fines that they can assess for what some would consider very minimal infractions, as far as silt into a brook or a little stream, I find that a little bit too much of a burden on my constituents. I have heard enough concern from my constituents to say yes, there is a problem here that needs to be addressed. This is one avenue that has been proposed. As I have mentioned, I would be willing, if we get this to second reading, to put an amendment to not have this cost additional to the State of Maine, but to have it specifically drawn from their account. A number has been put out that this might cost up to half a million dollars. Men and Women of the Senate, that would be 200 cases that the Department would lose throughout our State, to get up to the half million. Now, if the Department is bringing in, on an annual basis, 200 cases which are dogs and shouldn't be in the court system anyway, then I think there should be some recompense. I think this is just the vehicle to do it.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Franklin, Senator Benoit.

Senator **BENOIT:** Thank you Madam President. May it please the Senate. Merely alledging a violation against somebody doesn't make it so. I will tell you what I am not afraid of concerning this piece of legislation. I am not afraid of allowing Maine citizens to recover some of their attorney's fees when they succeed in defense of a case brought against them by their government.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by Senator **LORD** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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 9 Senators having voted in the negative, the motion by Senator LORD of York to ACCEPT the Majority OUGHT NOT TO PASS Report, PREVAILED.

Sent down for concurrence.

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

SENATE REPORTS from the Committee on LABOR on Bill "An Act to Permit an Employer to Offer a Compressed Time Workweek to Consenting Employees" S.P. 188 L.D. 496

Majority - Ought to Pass As Amendment by Committee Amendment "A" (S-72) (7 members)

Minority - Ought Not to Pass (6 members)

Tabled - earlier in the day by Senator KIEFFER of Aroostook

Pending - the Motion by Senator BEGLEY of Lincoln to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report.

(In Senate, April 25, 1995, Reports READ.)

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

Senator RAND: Thank you Madam President, Men and Women of the Senate. The proposal outlined in L.D. 496, "An Act to Permit an Employer to Offer a Compressed Time Workweek to Consenting Employees" was something that the Committee viewed as a laudible goal. The problem that those of us opposing the legislation had was that, as written, this L.D. would have violated the federal wage and hour regulations contained in the federal Fair Labor Standards Act. This was not just an opinion of those on the Committee who opposed the legislation, it was also the opinion of the Maine Chamber of Commerce, the Department of Labor, the Department of Administrative and Financial Services. But, since the Committee vote was taken I have learned that an amendment is going to be proposed that would more than adequately take care of the problems that we had with this bill. So, I would urge this body to accept Senator Begley's recommendation, pass this bill so that we can go on to amend it. Thank you very much.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by Senator BEGLEY of Lincoln to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report.

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.

28 Senators having voted in the affirmative and No Senator having voted in the negative, the motion by Senator BEGLEY of Lincoln to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, PREVAILED.

The Bill READ ONCE.

Committee Amendment "A" (S-72) READ and ADOPTED.

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

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

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Abromson.

Senator ABROMSON: Madam President, is the Senate still in possession of L.D. 696?

THE PRESIDENT PRO TEM: The Chair would inform the Senator that that L.D. has been assigned to Second Reading and will be on the calendar tomorrow.

Senator SMALL of Sagadahoc was granted unanimous consent to address the Senate off the Record.

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

On motion by Senator PINGREE of Knox, ADJOURNED until Thursday, April 27, 1995, at 9:30 o'clock in the morning.