

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

# LEGISLATIVE RECORD

OF THE

**One Hundred And Seventeenth Legislature**

OF THE

**State Of Maine**

**VOLUME IV**

**FIRST REGULAR SESSION**

**Senate**

May 2, 1995 to June 16, 1995

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

In Senate Chamber  
Tuesday  
May 30, 1995

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

Prayer by the Reverend Gertrude Decoteau of the East Otisfield Free Baptist Church in Norway.

**REVEREND GERTRUDE DECOTEAU:** Greetings from the East Otisfield Free Baptist Church and may I draw your attention to one single red rose. Recognizing that some of you may be of different faiths, and different political parties, Mr. President, Senators and friends, may we have a moment of silent reverence out of respect for Senator Margaret Chase Smith.

Eternal God, we pray for guidance for the President of this Senate, for the President of this Country, and for the Governor of this State. May the decisions that they make here today be ones that will be done in accordance with the ideals and the principles of this great land. It is with humble spirits that we gather together in remembrance of Senator Margaret Chase Smith. It is with humble spirits that we have come from different areas of the State to do what we have been called to do, what we have been chosen to do. We have come together, setting aside families, in an effort to do that which will affect the lives of many. We have come together to do a job that is often frustrating and thankless. May these men and women fully realize the great importance of what they are going to be doing in this place, not only today, but throughout time. Creator God, may the men and women who have accepted this awesome responsibility know that the goals that they have set are attainable, when they work as one collective, elected unit, in harmony with each other. Give to each one here today an understanding that will bring about transformation and, if it is necessary, change. May they have understanding that will be heightened, and may they realize what should be done must be done for the good of all. Give them renewed zeal for the task that is before them as leaders of this State. Let nothing daunt or discourage them in the pursuit of what is required of them. May their aim be less to win self-acclaim, and more to further the good and the happiness of all people. Teach them not to forget to spend themselves in unselfish service, even as Senator Smith did. Teach them that the values and the high principles of this State, and this nation, is in their keeping. Creator God, for these chosen leaders, for those who walk the path of service, may they always be kept in the hollow of your hand. Amen.

Pledge of Allegiance led by Senator **CARPENTER** of York.

Off Record Remarks

Reading of the Journal of Thursday, May 25, 1995.

Off Record Remarks

**PAPERS FROM THE HOUSE**

**Non-concurrent Matter**

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

In House, May 18, 1995, Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**.

In Senate, May 24, 1995, Report **READ** and the Bill and Accompanying Papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Comes from the House that Body having **INSISTED**.

Senator **AMERO** of Cumberland moved that the Senate **ADHERE**.

Senator **LAWRENCE** of York moved that the Senate **RECEDE** and **CONCUR**.

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

**THE PRESIDENT:** The pending question before the Senate is the motion of Senator **LAWRENCE** of York that the Senate **RECEDE** and **CONCUR**.

A Division has been requested.

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

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

8 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion of Senator LAWRENCE of York to RECEDE and CONCUR, FAILED.

On motion by Senator AMERO of Cumberland, the Senate ADHERED.

---

**SENATE PAPERS**

Bill "An Act to Improve Safety in the Motor Carrier Industry"

S.P. 577 L.D. 1554

Presented by Senator PENDEXTER of Cumberland (GOVERNOR'S BILL)  
Cosponsored by Representative: LEMKE of Westbrook

Reference to the Committee on TRANSPORTATION suggested and ORDERED PRINTED.

Senator KIEFFER of Aroostook moved the INDEFINITE POSTPONEMENT of the Bill and Accompanying Papers.

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

Senator KIEFFER: Thank you Mr. President. This bill, to keep it very short, has been determined to be a tax bill, and therefore it must originate in the House and will have to be resubmitted.

On motion by Senator KIEFFER of Aroostook, the Bill and Accompanying Papers INDEFINITELY POSTPONED.

Sent down for concurrence.

---

**COMMITTEE REPORTS**

**House**

**Ought to Pass**

The Committee on TRANSPORTATION on Bill "An Act Concerning Environmental Registration Plates" (Emergency)

H.P. 1103 L.D. 1550

Reported that the same Ought to Pass, pursuant to Joint Order (H.P. 882).

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 CRIMINAL JUSTICE on Bill "An Act to Add Types of Pharmacies That Are Subject to Record Seizure"

H.P. 1057 L.D. 1486

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-296).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-296).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-296) READ and ADOPTED, in concurrence.

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

---

The Committee on HUMAN RESOURCES on Bill "An Act to Amend the Laws Governing HIV Testing at the Request of Victims of Sexual Assault"

H.P. 589 L.D. 799

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-299).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-299).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-299) READ and ADOPTED, in concurrence.

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

The Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Increase the Formula Used for ATV's and Snowmobile Reimbursement"

H.P. 802 L.D. 1119

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-297)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-297)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-297) **READ** and **ADOPTED**, in concurrence.

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

---

The Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Ensure Public Review and Legislative Oversight of Proposals Regarding the Introduction or Reintroduction of Threatened or Endangered Species"

H.P. 884 L.D. 1237

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-288)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-288)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-288) **READ** and **ADOPTED**, in concurrence.

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

---

The Committee on **JUDICIARY** on Bill "An Act Protecting a Citizen's Right of Petition under the Constitution"

H.P. 576 L.D. 781

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-300)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-300)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-300) **READ** and **ADOPTED**, in concurrence.

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

---

The Committee on **JUDICIARY** on Bill "An Act to Allow for Decreased Municipal Liability Regarding Ice-skating Rinks"

H.P. 750 L.D. 1024

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-301)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-301)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-301) **READ** and **ADOPTED**, in concurrence.

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

---

The Committee on **JUDICIARY** on Bill "An Act to Promote the Use of Alternative Dispute Resolution in State Government"

H.P. 772 L.D. 1069

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-302)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-302)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-302) **READ** and **ADOPTED**, in concurrence.

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

---

The Committee on **JUDICIARY** on Bill "An Act to Amend the Laws Governing Civil Liability for Individual Medical Providers with Whom the Department of Corrections Contracts"

H.P. 925 L.D. 1306

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-294)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-294)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-294) **READ** and **ADOPTED**, in concurrence.

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

---

The Committee on **NATURAL RESOURCES** on Resolve, to Direct the Land and Water Resources Council to Develop Alternatives to the Site Location of Development Laws That Protect the Environment and Improve the Effectiveness and Efficiency of the State's Land Use Laws

H.P. 947 L.D. 1336

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-303)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-303)**.

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

The Resolve **READ ONCE**.

Committee Amendment "A" (H-303) **READ** and **ADOPTED**, in concurrence.

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

---

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Establish Periodic Adjustments in the Mileage Reimbursements"

H.P. 974 L.D. 1383

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-291)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-291)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-291) **READ** and **ADOPTED**, in concurrence.

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

---

#### Divided Report

The Majority of the Committee on **HUMAN RESOURCES** on Bill "An Act to Legalize the Use of Marijuana for Medical Purposes"

H.P. 678 L.D. 929

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-268)**.

Signed:

Senator:  
PINGREE of Knox

Representatives:  
FITZPATRICK of Durham  
JOHNSON of South Portland  
SHIAH of Bowdoinham  
MARVIN of Cape Elizabeth  
ETNIER of Harpswell  
MITCHELL of Portland  
JONES of Bar Harbor

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

Signed:

Senators:  
PENDEXTER of Cumberland  
BENOIT of Franklin

Representatives:

JOYNER of Hollis  
WINGLASS of Auburn  
LOVETT of Scarborough

Comes from the House with the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Which Reports were **READ**.

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

---

**Divided Report**

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Establish the Maine Outdoor Heritage Fund"

I.B. 3 L.D. 717

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (H-279).

Signed:

Senators:

FERGUSON, JR. of Oxford  
MICHAUD of Penobscot

Representatives:

NADEAU of Saco  
FISHER of Brewer  
TRUE of Fryeburg  
CHIZMAR of Lisbon  
MURPHY of Berwick  
LEMONT of Kittery

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

Signed:

Senator:

STEVENS, JR. of Androscoggin

Representatives:

BUCK of Yarmouth  
LABRECQUE of Gorham  
GAMACHE of Lewiston

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-279).

Which Reports were **READ**.

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

---

**Senate**

**Ought to Pass As Amended**

Senator **GOLDTHWAIT** for the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Amend the Laws Governing Reciprocity in the Licensure of Pharmacists"

S.P. 96 L.D. 236

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (S-187).

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-187) **READ** and **ADOPTED**.

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

---

Senator **PENDEXTER** for the Committee on **HUMAN RESOURCES** on Bill "An Act to Modernize Vital Statistics Reporting"

S.P. 545 L.D. 1493

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (S-192).

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-192) **READ** and **ADOPTED**.

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

---

Senator **HATHAWAY** for the Committee on **TAXATION** on Bill "An Act to Promote Economic Development by Establishing a Research and Development Tax Credit"

S.P. 217 L.D. 559

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (S-188).

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-188) **READ** and **ADOPTED**.

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

Representatives:

CHASE of China  
GATES of Rockport  
MAYO, III of Bath  
SAXL of Portland  
MITCHELL of Vassalboro

Which Reports were **READ**.

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

Senator **HATHAWAY** for the Committee on **TAXATION** on Bill "An Act Amending the Maine Residents Property Tax Program Allowing Persons Having Sole Responsibility for Property Maintenance the Entire Exemption"

S.P. 311 L.D. 892

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-193)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-193) **READ** and **ADOPTED**.

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

**Divided Report**

The Majority of the Committee on **TAXATION** on Bill "An Act to Repeal Point-of-sale Fees for Future Disposal of Certain Items"

S.P. 84 L.D. 203

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-190)**.

Signed:

Senators:

CAREY of Kennebec

Representatives:

DORE of Auburn  
TRIPP of Topsham  
KEANE of Old Town  
RICHARDSON of Portland  
GREEN of Monmouth  
SPEAR of Nobleboro

**Divided Report**

The Majority of the Committee on **BANKING AND INSURANCE** on Bill "An Act to Strengthen Oversight of Medical Malpractice Insurance and Stabilize Premiums" S.P. 458 L.D. 1254

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

Signed:

Senators:

ABROMSON of Cumberland  
SMALL of Sagadahoc

Representatives:

VIGUE of Winslow  
CAMPBELL of Holden  
GUERRETTE of Pittston  
JONES, JR. of Pittsfield  
LUMBRA of Bangor

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (S-191)**.

Signed:

Senators:

HATHAWAY of York  
FERGUSON of Oxford

Representatives:

TUTTLE of Sanford  
MURPHY of Berwick  
DUNN of Gray  
REED of Falmouth

Which Reports were **READ**.

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

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-186)**.

Signed:

Senator:

MCCORMICK of Kennebec



**Divided Report**

The Majority of the Committee on **TAXATION** on Bill  
"An Act to Improve Access to Corporate Tax Data"  
S.P. 457 L.D. 1253

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

Signed:

Senators:

HATHAWAY of York  
FERGUSON, JR. of Oxford  
CAREY of Kennebec

Representatives:

DORE of Auburn  
TRIPP of Topsham  
TUTTLE, JR. of Sanford  
KEANE of Old Town  
MURPHY of Berwick  
GREEN of Monmouth  
SPEAR of Nobleboro  
DUNN of Gray  
REED of Falmouth

The Minority of the same Committee on the same  
subject reported that the same **Ought to Pass as**  
**Amended by Committee Amendment "A" (S-189).**

Signed:

Representative:

RICHARDSON of Portland

Which Reports were **READ.**

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

Sent down for concurrence.

---

**SECOND READERS**

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

**House As Amended**

Bill "An Act Relating to Equipment Start-up,  
Shutdown and Unavoidable Malfunction"  
H.P. 354 L.D. 474  
(C "A" H-278)

Bill "An Act to Implement the Recommendations of  
the Commission to Study the Statutory Procedures for  
Local Property Tax Abatement Appeals"  
H.P. 425 L.D. 582  
(C "A" H-281)

Bill "An Act to Reduce Paperwork and Promote  
On-site Elementary Neutralization of Low-hazard  
Wastes"

H.P. 475 L.D. 656  
(C "A" H-277)

Bill "An Act to Permit the Equitable Taxation of  
Leased Equipment"

H.P. 486 L.D. 667  
(C "A" H-283)

Bill "An Act to Encourage Compliance with  
Environmental Laws Administered by the Department of  
Environmental Protection"

H.P. 677 L.D. 928  
(C "A" H-285)

Bill "An Act to Require Licensure for Use of the  
Title Athletic Trainer"

H.P. 699 L.D. 957  
(C "A" H-282)

RESOLUTION, Proposing an Amendment to the  
Constitution of Maine to Establish a Line-item Veto

H.P. 729 L.D. 1003  
(C "A" H-175 and H  
"A" H-238)

Bill "An Act Authorizing the State Board of  
Education to Adopt Rules Regarding Certain Early  
Childhood Personnel"

H.P. 747 L.D. 1021  
(C "A" H-284)

Bill "An Act to Amend the Structure of the  
Electricians' Examining Board"

H.P. 787 L.D. 1104  
(C "A" H-280)

Resolve, Authorizing the Director of the Bureau  
of Parks and Recreation to Sell Land and Improvements  
on Hospital Street in Augusta, Maine Known as the  
Trial House

H.P. 809 L.D. 1126  
(C "A" H-275)

Bill "An Act to Add Forfeiture of a Firearm as a  
Sentence Alternative for the Crime of Possession of a  
Firearm by a Felon"

H.P. 842 L.D. 1173  
(C "A" H-286)

Bill "An Act to Increase Venture Capital Access  
to State Businesses"

H.P. 920 L.D. 1296  
(C "A" H-272)

Bill "An Act to Repeal the Law Regarding Access  
to Property via Abandoned Roads"

H.P. 966 L.D. 1375  
(C "A" H-276)

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

**ENACTORS**

Bill "An Act to Increase Moose Hunting Permit Application Fees"

H.P. 841 L.D. 1172  
(C "A" H-263)

Which was **READ A SECOND TIME**.

On motion by Senator **HALL** of Piscataquis, Tabled 1 Legislative Day, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

---

**Senate As Amended**

Bill "An Act to Clarify Immunity from Civil Suit for Volunteer Activities"

S.P. 128 L.D. 320  
(C "A" S-178)

Bill "An Act to Make Allocations from Maine Turnpike Authority Funds for the Maine Turnpike Authority for the Fiscal Year Ending December 31, 1996"

S.P. 284 L.D. 772  
(C "A" S-181)

Resolve, Renaming Coves in St. George, Cushing and Friendship

S.P. 361 L.D. 987  
(C "A" S-179)

Bill "An Act to Allow Towns to Register Vehicles on Loan through the Federal Excess Property Program without Local Title"

S.P. 370 L.D. 1047  
(C "A" S-180)

Bill "An Act to Ensure Mills Their Annual Supply of Logs and Wood Chips"

S.P. 376 L.D. 1053  
(C "A" S-184)

Bill "An Act to Abolish the Richmond Utilities District"

S.P. 381 L.D. 1058  
(C "A" S-183)

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

S.P. 522 L.D. 1420  
(C "A" S-182)

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

Sent down for concurrence.

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

An Act Concerning Placement of Modular Homes  
S.P. 109 L.D. 285

An Act to Allow Candidates to Donate Surplus Campaign Funds to Charitable and Educational Institutions

S.P. 340 L.D. 945

An Act to Amend Certain Provisions of the Law Relating to Defense

S.P. 384 L.D. 1061  
(C "A" S-144)

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

---

An Act Concerning the Sale of Double Gauge Lobster Measures

S.P. 429 L.D. 1197  
(C "A" S-143)

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

---

**Emergency**

An Act to Expand Eligibility for Benefits under the Adoption Assistance Program

S.P. 247 L.D. 644  
(C "A" S-109)

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

---

**Mandate**

An Act to Establish Responsibility for the Investigation of the Use of Deadly Force by Law Enforcement Officers

S.P. 448 L.D. 1221  
(C "A" S-145)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 29 Members of the Senate, with No Senators having voted in the negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Pending - **ACCEPTANCE** of Either Report

(In House, May 25, 1995, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, earlier in the day, Reports **READ**.)

Senator **PENDEXTER** of Cumberland moved that the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence.

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

Senator **PINGREE:** Thank you Mr. President. I will just speak briefly to this bill. We had tremendous testimony from people who have found the use of marijuana to be beneficial for difficulties that they are experiencing, either through chemotherapy, through having glaucoma, or HIV. I think everybody on the Committee was convinced that there was some useful medicinal purpose to marijuana. We were impressed with all of the testimony. We spent many hours discussing it. The problem was that, because of federal laws, we could not allow a doctor to prescribe this drug, which would be the most sensible way to allow its use and still comply with the law. This bill simply allows an affirmative defense if someone is caught using marijuana for medicinal purposes, they are allowed to use, in a court of law, the defense that it is an appropriate treatment for their disease. I think, because of that, you should vote against the pending motion and allow this particular action to take place. Thank you.

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

Senator **PENDEXTER:** Thank you Mr. President, Men and Women of the Senate. There's no doubt, after having sat through this public hearing, probably for the fifth time since I've been here, that there are some medicinal effects with smoking marijuana, particularly in the area of controlling nausea and vomiting. So, patients who are going through chemotherapy, and also AIDS patients, tend to be the constituents who would be better served if they could legally smoke marijuana. The problem is that marijuana is a Schedule 1 drug. We have no control over that. The DEA dictates that that's what it is going to be, and that is what it is. A Schedule 1 drug is illegal. So, although we can argue all day that perhaps there might be some people who would medicinally be served with this drug, the point of the matter is it can't happen because it is illegal. Even if this bill was to pass, the affirmative defense still would not cover federal law. Under federal law you would still be illegal, for possessing or whatever. The other thing that happens is we create an affirmative defense scenario, it's still illegal to grow, it's still illegal to sell, it's still illegal to traffic, and so I don't know where these patients are supposed to get this marijuana. It's just not going to happen. So, I would ask you to vote against this bill, basically

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

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 **LAWRENCE** of York, **RECESSED** until 11:30 o'clock in the morning.

After Recess

Senate called to order by the President.

#### ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on **HUMAN RESOURCES** on Bill "An Act to Legalize the Use of Marijuana for Medical Purposes"

H.P. 678 L.D. 929

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-268)** (8 members)

Minority - **Ought Not to Pass** (5 members)

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

because there is no way we can affect anything guiding marijuana until the feds decide to remove it from the Schedule 1. Thank you.

---

Off Record Remarks

---

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

Senator **RAND:** Thank you Mr. President, Men and Women of the Senate. I hope that you will reject the motion on the floor so we can go on to pass the Majority Ought to Pass Report on this L.D. While it is true that some changes are really necessary on the federal level, when it comes to marijuana, marijuana research, and these sorts of things, it is not quite accurate that we cannot, at the State level, do anything with marijuana. Certainly, in Maine we have passed a law that says that possession of less than one and a half ounces is still a civil offense, but it is not a criminal offense. This very legislation passed both the House and the Senate in the 116th Legislature. It does not make marijuana legal. This continues to have marijuana as an illegal substance. The only thing this Bill would do, as amended, would give the person who is smoking marijuana for relief of horrible nausea and vomiting, or for relief that can be obtained for glaucoma patients, give them an affirmative defense, which means that the judge would look at the situation and realize, with the medical documentation that would be necessary, would realize that this person had a medical reason for using this illegal substance, and would take that into consideration when weighing the decision. I would hope that you would give the motion on the floor a no vote, so that we can go on to pass the Majority Ought to Pass Report. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **PENDEXTER** of Cumberland that the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence.

The Chair ordered a Division.

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

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

21 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **PENDEXTER** of Cumberland to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

---

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

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Establish the Maine Outdoor Heritage Fund"

I.B. 3 L.D. 717

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-279)** (8 members)

Minority - **Ought Not to Pass** (4 members)

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

Pending - **ACCEPTANCE** of Either Report

(In House, May 24, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-279)**.)

(In Senate, earlier in the day, Reports **READ**.)

Senator **FERGUSON** of Oxford moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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

Senator **STEVENS:** Thank you Mr. President, Men and Women of the Senate. I would be pleased if everyone would go against the motion that has been put on the floor and vote Ought Not to Pass. This is something that came into the Legal Affairs Committee by the signature of 60,000 people. It could go out as a referendum in November and I think that's what should happen to it. The fiscal note on it would be about \$1.2 million to \$1.6 million. One of the things that disturbed me a little on it was that 15% of the money would go to endangered and threatened species. One of the groups who came to testify for the bill was the Maine Wolf Coalition. I think they would like to see the wolf introduced back into the State, and that is something that I would be very definitely against.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **FERGUSON** of Oxford that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

The Chair ordered a Division.

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

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

22 Senators having voted in the affirmative and 9 Senators having voted in the negative, the motion by Senator **FERGUSON** of Oxford to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-279) **READ** and **ADOPTED**, in concurrence.

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

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

**SENATE REPORTS** - from the Committee on **BANKING AND INSURANCE** on Bill "An Act to Strengthen Oversight of Medical Malpractice Insurance and Stabilize Premiums"

S.P. 458 L.D. 1254

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-186)** (6 members)

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

Pending - **ACCEPTANCE** of Either Report

(In Senate, earlier in the day, Reports **READ**.)

Senator **ABROMSON** of Cumberland moved that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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

Senator **McCORMICK:** Thank you Mr. President, Men and Women of the Senate. I would urge you to vote against the pending motion so that we can take up the very modest proposal contained in the Minority Report. This is one portion of the bill. The bill had many components. We killed all of them, but the one that many members of the Committee thought had merit was a closed claim study of malpractice costs, because this is an argument that we perennially engage in and we don't have enough facts. What we need is facts so that we just don't keep spinning our wheels. So, the Committee Amendment "A" is a closed claim study. It will be funded through assessments on malpractice insurers. It will have little or no impact on rates. Thank you.

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

Senator **ABROMSON:** Thank you Mr. President. I call the body's attention to the main law, which in Title 24, section 2601, Report of Claim. It says, "Every insurer providing professional liability insurance in this State to a person licensed by the Board of Registration in Medicine, or the Board of Osteopathic Examination and Registration, or to any

health care provider, shall make a periodic report of claims under the insurance." Under the Report of Disposition, the Report calls for a final judgement or award to the claimant of any amount, a settlement involving payment of any amount of money or services, or a final disposition not involving any money or services, the insurer shall make a report of disposition as provided, and so forth. I think we already have this in law, Mr. President, and do not need to pass the Minority Report.

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

Senator **McCORMICK:** Thank you Mr. President. I haven't had the benefit of reviewing, closely, that particular section of the law, but as I strained to hear it, and I didn't catch all of the words, as I understand what the good Senator from Cumberland, Senator Abromson, read is a yearly report of ongoing claims, which varies very significantly from a closed claim study. A closed claim study means claims only that have had their beginning and their end determined, and that the full cost of malpractice can be determined for those cases. It is a recognized way of determining the cost of malpractice insurance and malpractice in general, and that is what we keep arguing about as a policy matter, and that is why we need this particular set of facts. Thank you.

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

Senator **ABROMSON:** Thank you Mr. President. L.D. 1254, requiring a closed claim study, I would like to quote from the testimony, "Closed claim data is a very limited utility in regulating insurance rates, particularly for a line of insurance such as medical malpractice where claims close many years after they are reported. Making insurance rate, essentially, involves projecting future claim costs based on prior claim experience. To the extent that claims are not closed for several years, the date derived from such a study would be several years old. In a highly volatile line of insurance, such as medical malpractice, where trends can change frequently, old data is a limited utility in projecting future claim costs."

What basically happens is the easy claims, such as a chipped tooth or something, are closed pretty rapidly, but infant damage, or something of this nature, can stretch out well beyond the five years. In addition, I should point out, that the Bureau has indicated at this time internal actuarial resources of the Bureau remain insufficient to permit a closed claim study to be conducted without the involvement of outside actuarial resources, consequently a fiscal note for \$30,000 should be included to insure that the data is collected and quality standards met on an annual basis and for completion of the final report. I think I've said enough.

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

Senator **McCORMICK:** I would like to pose a question through the Chair. To the good Senator from Cumberland. Could you read the cite? Who was it that testified before us in that paragraph that you read?

**THE PRESIDENT:** 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 Cumberland, Senator Abromson.

Senator **ABROMSON:** Thank you Mr. President. To respond to the question, this was the testimony of Peter H. Thrane, Group General Counsel of the Medical Services Division of the St. Paul Company.

**THE PRESIDENT:** Senator McCormick of Kennebec requested and received leave of the Senate to speak a fourth time. The Chair recognizes the Senator from Kennebec, Senator McCormick.

Senator **McCORMICK:** Thank you Mr. President. I just wanted to point out that that testimony, which I thought was from the representative of the malpractice insurance company, is not surprising. Had it been the Bureau of Insurance, or some neutral entity, who is telling us that closed claim studies are not useful, that would have been a different matter.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **ABROMSON** of Cumberland that the Senate **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.

20 Senators having voted in the affirmative and 9 Senators having voted in the negative, the motion by Senator **ABROMSON** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

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

SENATE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Repeal Point-of-sale Fees for Future Disposal of Certain Items"

S.P. 84 L.D. 203

Majority - Ought to Pass as Amended by Committee Amendment "A" (S-190) (7 members)

Minority - Ought to Pass as Amended by Committee Amendment "B" (S-191) (6 members)

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

Pending **ACCEPTANCE** of Either Report

(In Senate, earlier in the day, Reports **READ**.)

Senator **HATHAWAY** of York moved that the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-191)** Report.

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

Senator **HATHAWAY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I moved the Ought to Pass as Amended by Amendment "B" because, once again, for reasons that I have stated, our tax policy in this State should be simple, it should be honest, and it should restore trust. We all agree, on the different Committees in this Chamber, and with the Administration, that the Waste Management Agency should be terminated and positions transferred into other areas, so that the best parts of the Waste Management Agency can be restored and can continue. That's not the issue. Amendment "B" allows that to happen and have the good programs carry on with a budget of about \$1.8 million. The issue really is when will we terminate the fees that we are now collecting for the waste management agency. Amendment "B", I think, does the honest thing which is to terminate the fees when we terminate the agency. That's what it does, it proposes to do so on October 1 of 1995. Amendment "A" continues collection of the fees, even though the agency will be terminated, for another two years on some of the fees. I think it would be the ultimate in hypocrisy for this Chamber to terminate an agency and continue to collect these taxes on the people of the State of Maine. To do so, I do think, does not pass the honesty test between our people and our government. I recently went into Daley Brothers Mattress Company in Biddeford and bought a mattress for \$50. Besides the 6% sales tax, I was also charged a \$5 fee which is, essentially, another 10% tax on that item. I had a long discussion with the owner. I also have had several calls from Walsh's Furniture, Mrs. Walsh in Kittery, telling me how sad it is that she and her family have worked so hard all of their lives to grow their furniture business, only to find, every morning, that the truck from the furniture store in Portsmouth goes by her shop, carrying products to people who live in Maine, because they can buy it so much cheaper in Portsmouth because they don't have to pay the sales tax and they don't have to pay the disposal fee. So, I am asking you today to vote not to perpetuate this gimmick. To help restore some trust between people and their government, and to please be honest with the people who are having to pay this fee. We all agree that the agency will be terminated. I urge you to terminate the fees at the same time. Thank you.

On motion by Senator **LAWRENCE** of York, Tabled until Later in Today's Session, pending the motion by Senator **HATHAWAY** of York that the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-191)** Report.

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 Allow the Collection of Reimbursement for Medical Expenses

S.P. 375 L.D. 1052  
(C "A" S-148)

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 Mandate**

An Act to Amend the Charter of the Bangor Water District

H.P. 311 L.D. 415  
(S "A" S-171 to C  
"A" H-228)

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

Senator **HANLEY:** Thank you Mr. President, Men and Women of the Senate. I just rise to alert you that item 7-2, An Act to Amend the Charter of the Bangor Water District, L.D. 415, does have a fiscal impact. We have taken that item up in front of the Appropriations Committee, and by a Committee vote it was moved to exempt this item from the Special Appropriations Table.

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 29 Members of the Senate, with No Senators having voted in the negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

---

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

**PAPER FROM THE HOUSE**

**House Papers**

Bill "An Act to Amend the Emergency Planning and Community Right to Know Laws" H.P. 1107 L.D. 1555

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.

---

**ORDERS OF THE DAY**

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

HOUSE REPORT from the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Restore State Funding for State Expenses at County Jails" (EMERGENCY) H.P. 803 L.D. 1120

Report - Ought to Pass as Amended by Committee Amendment "A" (H-287).

Tabled - May 25, 1995, by Senator **KIEFFER** of Aroostook.

Pending - **ACCEPTANCE OF THE REPORT**.

(In House, May 24, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-287)**.)

(In Senate, May 25, 1995, **REPORT READ**.)

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-287) **READ** and **ADOPTED**, in concurrence.

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

---

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

HOUSE REPORTS from the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Require Firearm Hunters to Wear Blaze Orange"  
H.P. 586 L.D. 796

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-264) (7 members)

Minority - Ought Not to Pass (6 members)

Tabled - May 25, 1995, by Senator **KIEFFER** of Aroostook.

Pending - **ACCEPTANCE OF EITHER REPORT.**

(In House, May 24, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-264).**)

(In Senate, May 25, 1995, **REPORTS READ.**)

Senator **HALL** of Piscataquis moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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

Senator **MICHAUD:** Thank you Mr. President, Men and Women of the Senate. I request a Division. I hope that you would not accept the Ought to Pass Report. This would require persons engaged in rabbit or upland bird hunting, during October, to wear at least one article of hunting orange. I do not believe that this is appropriate, it's another mandate. There are currently duck hunters out there, bear hunters, and bow hunters at the same time. What this bill would do is it would require rabbit hunters to wear orange. I think it is an unnecessary mandate and I hope you will vote against it.

Senator **MICHAUD** of Penobscot requested a Division.

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

Senator **HANLEY:** Thank you Mr. President, Men and Women of the Senate. I rise to concur with the good Senator from Penobscot, Senator Michaud. I, too, think this is an inappropriate measure for the State to impose onto the upland game hunters. During October the season is very limited for those hunting upland game, very restricted. The deer season, following afterwards, is much longer and people have an opportunity at that point in time to wear blaze orange. I think, for the upland game hunters, the safety record is nearly impeccable. I don't think there is any reason to force this mandate on the hunters of the State of Maine. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Piscataquis, Senator Hall.

Senator **HALL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. There is no question that blaze orange has been a very big factor in

cutting down the number of hunting accidents that have occurred in this State over the past few years. Back in the late 1940's and into the early 1950's, a seven year time span, there was 100 people killed while hunting, 100 in a seven-year time span. Since hunter orange, hunter safety programs, stopping hunting at sunset, all these things have added to cut down the numbers. I think it is pretty well accepted that the hunter orange color has been the biggest factor. In the last seven years of hunting we have only had 5 fatalities, 5 compared to 100. The accidents, as of late, have occurred with bird hunters, most of them swinging, or following, a bird and peppering one of their companions with birdshot. Some may say birdshot doesn't hurt. It probably would not be fatal, but you could lose an eye, you could lose both eyes, you could take a direct charge in the face. There is basically no need for this to occur. The reason it is occurring is because our bird hunters specifically are not wearing fluorescent orange. If they did I think we could cut the numbers down even further. To me, this is strictly a safety issue. One who argues that it is big brother telling us one more thing to do, I have no argument for that, none whatsoever, it indeed most definitely is.

This bill calls for the month of October. Already, in over half of the State, in one week of October we hunt moose. Anyone who hunts anything, except waterfowl, in that part of the State has to wear two articles of orange clothing. During deer season it's two articles of orange clothing. This particular bill calls for one article that can be seen from all sides, a hat, a vest, a pair of pants. Most everybody hunts something else besides upland birds, and if you are a hunter you own an orange hat. Simple as that. You are not going to have to go out and buy anything extra. It is simply a safety issue that we really should have. It only covers the month of October, but I urge you to vote for the majority report, in the name of safety. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion of Senator **HALL** of Piscataquis that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

A Division has been requested.

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

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

10 Senators having voted in the affirmative and 21 Senators having voted in the negative, the motion of Senator **HALL** of Piscataquis to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **FAILED.**

The Minority **OUGHT NOT TO PASS** Report **ACCEPTED** in **NON-CONCURRENCE.**

Sent down for concurrence.



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

HOUSE REPORTS from the Committee on **TAXATION** on Bill "An Act to Decrease the State's Share of Real Estate Transfer Taxes"

H.P. 821 L.D. 1152

Majority - **Ought Not to Pass** (10 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A"** (H-265) (3 members)

Tabled - May 25, 1995, by Senator **AMERO** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT.**

(In House, May 23, 1995, the Majority **DOUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 24, 1995, Reports **READ**.)

Senator **HATHAWAY** of York moved that the Senate **ACCEPT** the Majority **DOUGHT NOT TO PASS** Report, in concurrence.

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

Senator **HATHAWAY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would just like to point out a few things about L.D. 1152. First of all, this issue is one of dedicated revenues. I feel that they should be used for the intended purpose, either that or I think the tax should be repealed. I would like to say, also, that the Real Estate Transfer Tax that is allocated, the portion that is allocated to the Maine State Housing Authority, is put to good use. It does help lower interest rates for first-time home buyers. It does help leverage funds for matching federal funds. It also is used as a credit enhancement, again, to lower interest rates for first-time home buyers. All of that work has resulted in about 1500 new jobs in this State through the housing industry. I, like everyone else, support lower property taxes and more funds going to County Government, however the money that we are talking about here, in fiscal year 1997, is only about fifty cents a person. I think that money can be put to much better use by being used by the Maine State Housing Authority in a home-building industry, and creating jobs at the local level, rather than helping to put fifty cents back into the pocket of the property taxpayer.

I would like to say, also, that at least two or three times in the last ten years or so, in this Chamber, that by legislation the counties' proportion of money gained from the Real Estate Transfer Tax has almost tripled, by legislation. So, it's not that they haven't gotten any increases. They have gotten increases. Unfortunately, it was due to an increase in the Transfer Tax, but when that increase did come

on two previous occasions, some of it did go to the counties. So, again, I ask you to support the Ought Not to Pass and to support the housing industry in this State. Thank you.

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

Senator **FERGUSON:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would urge you to vote against the pending motion and vote in favor of Committee Amendment "A". What we are doing here, we are increasing the counties' portion from 10% to 20%. We would still allocate 40% to the Maine State Housing Authority, and 40% to the General Fund. Over the biennium it amounts to about \$742,000 or \$743,000. This would go directly to the property taxpayers in the various towns. It would go right to help reduce their taxes, not by much, but every little bit helps. The counties do collect this tax. As the good Senator from York mentioned, they are getting more, but they just about tripled the transfer tax in order to achieve that. It seems to me that this is a fairness issue. The counties should get more than 20%, they should get at least 50% or 100%, but in any event, this is a compromise position and I would urge you to vote against the pending motion. Thank you very much.

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

Senator **CAREY:** Thank you Mr. President, Members of the Senate. The Senator from Oxford, Senator Ferguson, is exactly correct. The monies, in fact, have been increasing, but as they increase for the counties, so did they increase for the Maine State Housing Authority, and so did they increase for the General Fund. The bill is, in fact, a compromise, at least for some of us who did not just plain reject it out of hand. The bill came in with a price tag much higher than what it is. They were after a 10% increase per year for five years. Those of us on the Committee who felt that they did deserve something cut it down so that they would only get a 10% increase and hopefully would freeze at that for the same level that they have had, 10%. Which, I understand goes back to 1965.

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

Senator **BEGLEY:** Thank you Mr. President. I, too, hope that you will vote against the pending motion. When this came into existence to help the Housing Authority, it found a way to allow people, on a lower level of government, to work for a very small portion of what was taken in. It has continued to do that through the counties, and the County Register of Deeds have come before this body for three or four different sessions, and have pointed out to us that that is not helping the county or the taxpayer in that county. They do all the work. They do get some of the benefits from the 10%, but it has a tendency to be rather meager. If you were to ask many of the County Registers of Deeds what their plight is today, it is money, and they are constantly being pressured into that position. A 10% increase is a very meager increase, and in my opinion, it should be granted to them.

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

Senator **GOLDTHWAIT:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Although the current issue may be worth what has been described as only a few pennies by the good Senator from York, Senator Hathaway, we seem to address issues of a few pennies involving municipalities over and over. Municipalities often come out on the short end of that. We have been considering L.D. 11, a tax exemption for farm equipment, at a cost to municipalities of \$241,000. We are considering doubling the exemption for church parsonages, at a cost to municipalities of \$231,000. We will be considering L.D. 1501, a bill to exempt non-profit child care centers from property tax, with a cost to municipalities of \$259,000. We are considering L.D. 571, we passed that, to eliminate the personal property tax on individuals, the cost to municipalities is \$250,000. "Taken together the Legislature either has, or appears ready," I'm reading from the MMA Legislative Bulletin, "to create new local property tax exemptions, costing the municipalities approximately \$1.5 million in fiscal year 1996, with the amount growing thereafter." So, although this is a relatively small amount of money, I would submit that every single penny is important to the municipalities. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion of Senator **HATHAWAY** of York that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

The Chair ordered a Division.

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

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

14 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion of Senator **HATHAWAY** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **FAILED**.

The Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED** in **NON-CONCURRENCE**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-265) **READ** and **ADOPTED**.

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

---

Off Record Remarks

---

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

Bill "An Act to Increase the Minimum Wage in Maine"

H.P. 108 L.D. 143  
(C "B" H-67)

Tabled - May 25, 1995, by Senator **AMERO** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

(In House, May 17, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-67)**.)

(In Senate, May 24, 1995, **READ A SECOND TIME**.)

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

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

**SENATE REPORTS** from the Committee on **HUMAN RESOURCES** on Resolve, Requiring the State to Fulfill Its Commitment to Provide Adequate Mental Health Services for Senior Citizens in the Eastern Maine Area (**EMERGENCY**)

S.P. 35 L.D. 65

Report A - **Ought to Pass as Amended by Committee Amendment "A" (S-165)** (6 members)

Report B - **Ought Not to Pass** (6 members)

Tabled - May 24, 1995, by Senator **AMERO** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**.

(In Senate, May 23, 1995, **REPORTS READ**.)

Senator **PENDEXTER** of Cumberland moved that the Senate **ACCEPT** Report **"B" - OUGHT NOT TO PASS**.

Senator **LAWRENCE** of York moved to **TABLE** until Later in Today's Session, pending the motion by Senator **PENDEXTER** of Cumberland to **ACCEPT** Report **"B" - OUGHT NOT TO PASS**.

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

**THE PRESIDENT:** The pending question before the Senate is the motion of Senator LAWRENCE of York to TABLE until Later in Today's Session, pending the motion by Senator PENDEXTER of Cumberland to ACCEPT Report "B" - OUGHT NOT TO PASS.

A Division has been requested.

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

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

12 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion of Senator LAWRENCE of York to TABLE until Later in Today's Session, pending the motion by Senator PENDEXTER of Cumberland to ACCEPT Report "B" - OUGHT NOT TO PASS, FAILED.

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

Senator FAIRCLOTH: Thank you Mr. President, Colleagues of the Senate. I rise in opposition to the pending motion, and in support of the Majority Report of the Joint Standing Committee on Human Resources, Ought to Pass as Amended, of L.D. 65. I want to thank the tri-partisan team of co-sponsors who have pledged their support for this legislation. To give you some background, L.D. 65 requires that the State of Maine keep its word to retain 1991 mental health bed capacity for senior citizens with psychiatric disabilities in the eastern Maine region, including Washington, Piscataquis, and Hancock Counties. L.D. 65, as amended, requires the State to keep about two-thirds of its word, to replenish 1991 bed capacity for the eastern Maine region, as promised, would require a total of 45 beds replenished. This bill merely directs the Department to contract for 33 community beds. Three and a half years ago, the State of Maine made a promise to the people of Maine. In a policy directive for privatization, dated November 17, 1991, the Department of Mental Health pledged that "the existing bed capacity" would be developed in the eastern Maine region to replace beds decreased at the Program on Aging. The Program on Aging, or POA, is a nationally praised facility on the BMHI campus, providing specialized care for seniors with mental illness. The directive specified that the replacement community facilities would offer "the highest quality of care". On August 21, 1992, the State sought a contract for 71 specialized nursing beds. In the years since, we have seen dramatic change, but not the change that was promised. On February 13, 1992, the State closed down a unit of 15 beds, yet we saw no beds in the community to replace those 15 beds gone. The State closed down another unit of 15 beds on May 20, 1993, yet we saw no beds in the community to replace now 30 beds gone. The State closed down another unit of 15 beds on May 5, 1994, yet we saw no beds in the community to replace now 45 beds gone. The State, during these years, rejected from admission to POA, patients which met the criteria for admission under State law. That is morally wrong. Senior citizens who need gero-psyche care are now scattered to the four winds. Some are languishing in private homes, alone, unable to care

for their own hygiene, and in danger for their very lives. Some are on the streets. Some are inappropriately housed in the main building at BMHI, in potentially dangerous settings, with much younger, stronger, mentally ill patients. Some are in boarding homes and nursing homes, which lack the capacity, the technology, or the training to deal with mentally ill seniors. These seniors are a danger to themselves and, sometimes, to others. The State has abandoned them. Senior citizens with mental illness have neither the capacity, nor the means, to hire high-paid lobbyists. These citizens are the most vulnerable members of our society, and therefore the way in which we treat these people, our neighbors, is a test of our society, and a test of our character. When we neglect these human beings, do we offer nothing but lip service, do we go back on promises already made? The answer to those questions is the answer to what kind of society we are, and what kind of society we want to become. Americans in general, and Mainers in particular, are good, decent-hearted people. Mainers know that the State of Maine made a promise, and we want that promise kept. We have seen Peter robbed, to pay Paul. Consider this bureaucratic logic, to meet entirely appropriate needs in other regions of the State, the Department has withheld funding from the BMHI region. So BMHI, and the Program on Aging, by virtue of their very quality of care, their high quality of care, are punished for doing a good job. Now that's bureaucratic logic. The POA is one of the outstanding programs for mentally ill seniors in the country. So what do the politicians propose? They propose to kill it. Melodie Peet, the new Commissioner of Mental Health, promises a new direction. I invited Commissioner Peet to Bangor, to visit POA and meet with the eloquent families who are fighting on behalf of their own flesh and blood. The Bangor Daily News headline, the next day, read "Peet Pledges Equal Treatment for Mentally Ill". We must give Commissioner Peet, and the Governor of Maine, the opportunity to fulfill that commitment. We must send L.D. 65, as amended, to the Appropriations Table.

Governor King said the other day, in another context, that he felt we had to keep a commitment made by the State prior to his governorship. That is laudable. Send this bill to the Appropriations Table, and give the Governor an opportunity to keep a long-standing commitment to basic morality. This legislation commands the State to keep its word, that's all. This legislation commands the State to sign a realistic contract for 33 of the promised specialized nursing home beds in the immediate future. Those beds need to come on line. The Governor has said, "There are no two Maines." If so, this bill will pass. The word given in 1991 must be kept in 1995. We are talking here about some old, sick, people. They have no lobbyists, no fancy brochures, but their voices cry out, all the more clearly, by their very silence. The only voices that can speak on their behalf are the quiet corner of your hearts, called the conscience. So, I respectfully request that you support the Majority Report of the Human Resources Committee. If we cannot even do that, I think we have lost our basic humanity and our decency to these senior citizens with mental illness. Thank you.

**THE PRESIDENT:** The Chair would note, that for the Record, there was from the Committee, Report "A" and Report "B", and both had the support of six members of the Committee. There was one member absent. The Chair recognizes the Senator from Cumberland, Senator Pendexter.

Senator **PENDEXTER:** Thank you Mr. President, Men and Women of the Senate. In 1991 this State Legislature made a policy decision which said that within the walls of our mental health institutions that we would get out of the nursing home business. We are basically talking, in this bill, about old people who have been mentally ill. For years, and years, and years, we have housed these people within the mental health institution. This is not inconsistent with policies that have happened in other states. In fact, most of the mental health institutions in other states have all gotten out of the nursing home business. As a matter of fact, within AMHI, we have successfully placed 104 people in our community. Nobody would argue that the Program on Aging is a good program, but it is a program funded by State taxpayer dollars. Within the bureaucracy of how we spend our taxpayer dollars, we have made a decision in this Legislature, and in subsequent sessions, that we do not want to spend our taxpayer dollars taking care of psychiatric, geriatric patients in institutions. That they are by far better cared for, and more humanely cared for, in community settings. The plea that the Senator from Penobscot makes, he goes after our heart and we have to take care of these poor people, you know I'm a nurse, and I'm in nursing because I care about people. This is all about politics, this is not about taking care of our elderly, mentally ill, people. Because if you really do care, I invite some of you to take a look at how we place some of our mentally ill patients in community settings. They are happy. They are well cared for. It's in residential home-like settings. The families are very happy with the results of having moved their patients. What we have dealt with, in Bangor, is a community that has snubbed their nose at Augusta and said, "We don't care what you say, we love our Program on Aging and we want to keep it." I think it's important that we continue to say to the Bangor community that you need to step up to the plate and take some responsibility, and start creating some of those humane, alternative, community settings within your arena. If it doesn't happen then they won't be able to reside in the Bangor community. We already know that there are 33 beds coming on-line in Waterville, and there are some other scenarios being implemented in Hartland. I understand those are not in the Bangor area, but there is nothing we can do when a community continues to say they are not going to do that. We dictate how our taxpayer monies get spent, and we have made the policy decision that it will not be taking care of our psychiatrically, mentally ill people in institutions. We will take care of them in community settings.

We know, for a fact, that there were two very fluid scenarios in the Bangor community that actually had developed some very good options, as far as community settings were concerned, and politically they all got squished. I would venture to say to you, if we continue to say to the Bangor community that we are serious about wanting to place our

elderly in community settings, I know that those two options will come forth, because they were viable, very good options. So, I would ask you to support the Ought Not to Pass Report. I might just share with you, the fiscal note, what this bill does is it creates 33 community beds within the community, but it doesn't move one body out of the institution. The fiscal note, if I can find it, in the years 1996 and 1997, is \$823,205. It is projected in 1997 and 1998 to cost \$1 million. Why would we want to continue to pour money into a scenario, in keeping people in our institutions, when indeed that money needs to be spent in the community setting. When we move people out of institutions, we already have a pot of money that is paying for their care, and that pot of money moves on into the community. So, the way to do this is to not set scenarios in the community and then continue to keep our people in the institutions. We have to move them on out of the institutions, into the community settings. The good part about all of this, it is actually fiscally more responsible to do it this way, not that we are driven by fiscal decisions all the time. It is really a more humane, and probably where you would want your elderly relative, in a much better, home-like setting. So, I ask you to vote for the Ought Not to Pass motion. Thank you.

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

Senator **PINGREE:** Thank you Mr. President. It troubles me to see that we continue to talk about deinstitutionalization as if it was the wonder drug. It did sound good, it is something that we have been working on for years, moving people back to their communities, into residences where they will be closer to their family members. We thought that it would save the State a lot of money. I think, ultimately, it has ended up costing us money. POA will probably be the next result of that. The fact is the State did make a promise to the community of Bangor that they would find a place for all of the residents of this community, now 45 beds are gone from the facility and nothing has been done. I believe in community-based mental health. I do understand that that is what we are going to do, but it's difficult to look at a program like POA and not say, "Boy, this is a really nice place." Just because we have an overriding policy that says that this is what we are going to do in all places, in all situations, it troubles me that we can't look at this particular program and say it may be the best place for people with this particular need, and for their family members.

When the Department spoke to us about where residents could move, they suggested Waterville. I would have to say that if I had a family member, and I was a resident of eastern or northern Maine, I would not find Waterville a close proximity to my community. Again, the good Senator from Cumberland said this is all about politics, well certainly, if I was a family member I would like to think it was all about the members of my family, that I was troubled at where they were going to end up once this facility was closed, given the fact that the Department has not met its obligation to find other beds. Amendment "A", I believe, is a compromise. It does not tie us to any one solution. It merely asks the Department to accept its responsibility and assure the

Committee, and Bangor, that we will take responsibility for the aging, mentally ill, population in Bangor. I believe that the Department has not done its job. It was all too easy for us to just say we are going to close down, save some money, and put people in the community. Perhaps Bangor has resisted closing down this facility, but I also have to say that one thing I have learned from sitting on the Committee was that we sweetened the deal for a lot of places in southern Maine. We made it much easier for developers to come in and open new facilities. The fact is is that the money isn't there anymore and we don't want to fund those programs, we basically just want to shut this down and say move to southern Maine, move to Waterville, or wherever you can find a bed, that's the best we can do for you. I believe that ultimately these costs don't disappear. We have to do the right thing in this proposal. The bill actually states that once it goes to the Appropriations Table, the Department would develop the needed resources within the limitations of the funds appropriated. So, it will be ultimately the decision of the Appropriations Committee to see what we can afford to pay. I do think it's important to pressure the Department at this time, to make sure that we really do adequately move people to a place where they can be close to their family members, and where they are well served. I urge you to vote for Committee Amendment "A" and not take yet another simplistic view that lowers our responsibilities.

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

**Senator FAIRCLOTH:** Thank you Mr. President. Just to follow up on a couple points. Just for the Record, as to the Report of the Human Resources Committee, I spoke to Representative Elizabeth Mitchell, who is not listed on the report. She said that she was there and, in fact, supported the Majority Report, so certainly in spirit, if not in actual printing on the document, it is a Majority Report of the Committee. Secondly, I was under the impression, listening to the good Senator from Cumberland, that somehow I was re-opening units in the Program on Aging. That's not what this proposal does. This proposal pushes for community placement, simply pushes for the community placement that was promised in 1991, that's all we are doing. They said they would maintain existing bed capacity, they shut down units in POA, and it was a bait and switch, they never followed through and provided the community placement. I know, but if you want to look at the population statistics, the age of 65 and over, in Penobscot County, Hancock, Washington, Piscataquis and southern Aroostook, senior citizens have increased in each of those counties. But, for some reason, the total bed capacity for care for these people has decreased. All we are asking is simply for the State to keep its word.

I'm also entertained by comments about moving people to Waterville or Hartland. It is incredibly "Kafka-esque", what they are saying is that in the name of community placement we will remove people from their community, 80% of the people live within 25 miles of Bangor who have patients there. The other 20% are from Southern Aroostook, Piscataquis, Hancock and Washington Counties. So, they are going

to move them some place much farther from their community. As to political opposition to community placement, my bill, L.D. 65 in the original form, and in the amended version, is directly targeted at opening the community beds that they promised. That's all we are asking for. I would just simply plead with the Senate to allow this to go to the Appropriations Table so the Commissioner of Mental Health can have the opportunity to fulfill the commitment that the State of Maine made. Thank you.

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

**Senator BUSTIN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I rise in support of the Ought to Pass Report, Committee Amendment "A", and I would like to clear up a few things. I have had some involvement in these issues. One of the things that was said was that the AMHI, that was called Greenlaw, had been able to place all of their patients there. In fact, Greenlaw had to have a waiver because it did not meet all of the requirements that were needed to take care of the elderly with mental health issues. We either had to build a new facility, or had to do something about getting rid of that waiver. It had been waived for years. The POA facility at Bangor is not waived, it is a premier facility. It is there, there are patients who live there, and are very well taken care of, thank you. If you went there, you would realize what a good facility it is. There are family members there who are constantly fighting to keep their family members in that facility. The question is, why would you want to build additional beds when you have premier beds right now? Secondly, when this issue was first brought up, and I have forgotten how many years ago, the people who take care of the elderly out in the community, the nursing homes et cetera, told us in no uncertain terms that they could not, they could not meet the demands that they were making on them and that they were unwilling to do so. In fact, there is a federal requirement that if you become a designated mental health facility then the funding issues change for you, and that's if you have more than 50% who are diagnosed with a primary illness of mental health. So, they have an additional measurement tool that they have to use when they are making decisions about how their beds are going to be used out there in the community. The third thing that I would say, why would you put out money to build additional beds when you already have premier beds in that community? It doesn't make any sense. Please support the Ought to Pass Report.

---

Off Record Remarks

---

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

**Senator LONGLEY:** Thank you Mr. President, Colleagues of the Senate. I just want to respond to

the comment that the people at Bangor Mental Health should finally come to the plate. One of the finest hours I had this year was at that institution. The amount of work, and the amount of heart and soul and spirit that went into caring for these people, I would just like to correct the Record. They are already at the plate, and in my opinion, they are hitting balls out of the park every pitch. Thank you.

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

Senator **HARRIMAN:** Thank you Mr. President. Good afternoon Ladies and Gentlemen of the Senate. In the 116th Session of the Maine Senate, I had the pleasure of serving on the Human Resources Committee. Many of the issues that I have heard discussed here this morning, we were discussing in the last session as the budget was being put together. We heard, very clearly, from our State institutions, their understanding that the goal was to provide community based settings for our mentally ill people who are also in need of geriatric services. It was clearly understood. At the end of the session, I wanted to follow through and see how the Department was going to handle that responsibility, so I purposely took the time to meet with the Department and look at how they ran the implementation program. I looked at the request for proposals. As it turned out, one of the facilities that put in a request for proposal happens to be in my Senate district. It's the Hawthorne House, in Freeport. Like you, I was sort of skeptical about how this would all come to life, and had a chance to meet with the administrators, had a chance to meet with some of the employees. By the time this facility came on line, I was genuinely impressed. This was a home. This was a place where you would want your mother or father to be in. Not only that, they saved the State tremendous amounts of money that is now being used to help other people in harm's way. In fact, some of the employees who worked at the Augusta Mental Health Institute, many of them were offered jobs at this new facility, and some of them took the offer. I have had a chance to meet with them. They tell me remarkable stories about how the people they cared for in the institutions, who are now in these settings, are happier, are less agitated, have shown signs of renewed enthusiasm. My experience has been that this has been a win win for State employees, who want these jobs, for the people that we are here to serve, more specifically our mentally ill, and we saved the State money. I think we need to continue on this journey. Even though there may be situations, like the one described by the Senator from Kennebec, Senator Bustin, I have no doubt that these folks are hard-working, providing great care. But, as the Senator from Cumberland so accurately said, before many of us even served in this Chamber, the State has made a policy decision to deinstitutionalize, to create an environment, a home-like environment in the community. From what I have seen, we have succeeded, and we should continue. I hope you will join me in supporting the good Senator from Cumberland, Senator Pendexter. Thank you.

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

Senator **GOLDTHWAIT:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I feel like this argument is getting a bit off the mark here, because the issue is not really to institutionalize or to deinstitutionalize. This society has been all over the place about that issue, and I'm not sure anybody knows which is better, and probably the right answer is that in some cases it's better, and in some cases it's not better. But, the truth of the matter is that some people do very well in an institutional setting, some people do very well in a home setting. We had home-like atmospheres for people who are not able to fully care for themselves, and they were called boarding homes, and the State legislated them out of existence. Now we are having a problem creating those home-like atmospheres in our communities again. The issue before us right now, as I see it, is not institutionalizing or deinstitutionalizing, it is simply providing an adequate volume of beds for the patients who need them in the Bangor area. That is what is so urgent about this legislation. What seems rather unfair to me is there was a commitment made, under the given theory of deinstitutionalization, to provide a certain number of beds for the area, they simply have not been provided. So, the argument to me is not whether we are going to provide them in an institution or out of an institution, it's that we are going to provide them, period. They do not exist for people who badly need them. Those of you who know as much as the good Senator from Cumberland, Senator Butland, about fishing, he will tell you that the cod end of the net is where all the fish end up. You can hit the mouth anywhere and they all go to the back narrow end of the net. In the health care system, that's the ER. Very frequently, in the Emergency Room, we have people wander in off the street, or are brought in by other people, who don't know who they are and don't know where they are. They are some of the people who have been deinstitutionalized. It's not all of those clients, but it does represent some of them. So, I think, rather than arguing about whether that is the appropriate setting or not, we must face the fact that right now, in the northern area of the State, we do not have enough beds, regardless of where those beds are, what they look like, who pays for them, or anything else. We do not have enough beds for the people who need them, and part of the reason for that is that the State has failed to live up to its promise to create beds somewhere as it closed beds somewhere. Therefore, this legislation is essential. Thank you.

---

Off Record Remarks

---

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

Senator **CIANCHETTE:** Thank you Mr. President. As you know, I don't speak on many of the bills here. There are several points I would like to make about

this one. First, understanding that probably everybody has their mind made up on how they are going to vote on this issue, unfortunately, I think. I want to thank Senator Goldthwait for putting the issue in the proper context for us to vote on. I know that the Senator from Penobscot, Senator O'Dea, feels strongly about this bill. I wish that we had been able to Table this so that he could have gotten his message in. Another point is that one of the purposes that I'm running for State Senate, and doing my public service, is that I am embarrassed and ashamed at the way the State of Maine is not taking care of those people who cannot take care of themselves. It was mentioned that this has to do with politics, I don't really understand that. The people I'm talking about, they probably don't even get to the polls to vote, they don't have lobbyists representing them down here in droves, they don't make political contributions, they need help. It seems to me that one of the basic principles that we are in business for down here is to help those people who cannot help themselves. That's what we are talking about this morning. If this were laying on the Appropriations Table, and if it cost \$1 million a year, and we are talking about institutions, I'm telling you that for all the fringes and money we spend here in the Legislature, for ourselves, I would far prefer to cut our budget \$1 million a year and give it to a program like this that is going to do some good. I don't know if you folks will change your mind or not, but I wish you would keep this bill alive, put it on the Appropriations Table so we can meet our commitments and we can be proud of ourselves.

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

Senator **PENDEXTER:** Thank you Mr. President. I just want to make a few more points. There is nothing in our biennium budget that is, right now, downsizing the POA. The fact of the matter is it is not going to happen until we develop community beds. But, I guarantee you, it will happen. The issue is going to be, are those patients going to be able to go in the greater Bangor community? Are they going to have to go to Waterville, or are they going to have to go to Hartland? Because these people are going to be taken care of. When we move them out of the institution they will have a community placement, and it will happen. The unfortunate part is that Bangor has the resources to develop community beds. I know of two excellent, viable options who I know will step up to the plate if we continue to be consistent with our message from Augusta. We have two. So, the issue is, as we are moving on to what we are going to do with our mental health institutions, the issue is not whether there will be geriatric patients there, because there won't be. We have made a policy decision in these halls that we are not going to be in the nursing home business. So, the greater question for the people at BMHI is, is that Bangor community going to finally help us and create some of those community beds? If they do so, great, because that is where they will be placed. But, that's not going to stop the public policy, because they are going to go someplace and, yes, they will have to go to Waterville, or they will have to go to Hartland, or whoever wants to create the resources will have them. So, the argument that we are just throwing these people out is not valid. We are, purposely, taking a lot of time to develop a proper place for these people.

You need to look at the greater picture. Before too long we will just have one institution in the State. We are not going to have any more cute settings, and we are basically moving on to just having a program, in our institutions, that takes care of patients that have to stay beyond the thirty-day insurance coverage. Whether you like it or not, that's where it's going. So, the Program on Aging is not going to be in our State institution because that's not what we want to do with our State's institutions. Of the 46 people in the Program on Aging, only 22 of them need specialized, or special and secure settings. So, I would even say to you that 6 of them don't even need to be in a nursing home, and that 8 of them could actually be in a regular nursing home. So, I would say to you, for the people in the Program on Aging, they are not even well placed. They are misplaced. They don't need to be in that setting. So, I urge you to continue to support the policies that prior legislatures have made, because this is the direction to go. I urge you to vote in support of the Ought Not to Pass motion.

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

Senator **FAIRCLOTH:** Thank you Mr. President. I will very briefly respond to a couple of points. Again, the good Senators from Cumberland, Harriman and Pendexter, and I, in this legislation, and in L.D. 65, do not seek to reverse any policy about deinstitutionalization. L.D. 65, and in its amended version reported by the Committee, simply says provide those beds which the State already promised in the community. That's all we are asking. As to politics and why there aren't beds now, I would simply say that that is what this bill is intended to do, to force those beds to occur in the community. I have spoken with people who work for the State, not people who represent politics in the Bangor area, people who work for the State who say the pragmatic issue, as far as opening community beds, is that the State isn't paying for it, basically. That the reimbursement rate over Medicaid to pay for these specialized nursing home beds has not been there at a level necessary to get private entities to participate in that process. As to the population of senior citizens with mental illness, again, there is the obvious fact that that general population has increased in this region. Also, left out from earlier remarks, is that in the main building at BMHI there are senior citizens, who are over 70 years old, housed with mentally ill, sometimes volatile young people, who are also mentally ill. Those people are not being taken care of. There are people who were not admitted in recent years who are not being taken care of. So, there is lots of need out there. I asked someone who worked for the State, if we opened all 45 beds, not just 33, would they be able to fill them with people who need specialized and secure care? Yes. Whether that is in the community or POA doesn't matter. If you open them, they will come, because the people out there need the care. All we are asking is to feel free to put them in the community, but let's pass this so we can put it on the Appropriations Table to give them that opportunity. Thank you.

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

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

Senator **BUSTIN:** Thank you Mr. President. Just a brief note to say that I wish we would get used to using the term "least-restrictive care" rather than "private non-profit", or "private for-profit", or "institution". "Least-restrictive" is what everybody wants. Secondly, I request the Yeas and Nays.

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

On motion by Senator **LAWRENCE** of York, **ADJOURNED** until Wednesday, May 31, 1995, at 9:30 o'clock in the morning.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **PENDEXTER** of Cumberland that the Senate **ACCEPT** Report "B" - **OUGHT NOT TO PASS.**

A vote of Yes will be in favor of **ACCEPTANCE.**

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

**YEAS:** Senators: **ABROMSON, AMERO, BEGLEY, CARPENTER, CASSIDY, FERGUSON, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LORD, MILLS, PENDEXTER, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND**

**NAYS:** Senators: **BERUBE, BUSTIN, CAREY, CIANCHETTE, CLEVELAND, ESTY, FAIRCLOTH, GOLDTHWAIT, LAWRENCE, LONGLEY, McCORMICK, MICHAUD, PINGREE, RAND**

**ABSENT:** Senators: **BENOIT, O'DEA, PARADIS, RUHLIN**

17 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 4 Senators being absent, the motion by Senator **PENDEXTER** of Cumberland to **ACCEPT** Report "B" - **OUGHT NOT TO PASS, PREVAILED.**

Sent down for concurrence.

---

**Off Record Remarks**

---

Senator **HANLEY** of Oxford was granted unanimous consent to address the Senate off the Record.

---