

# MAINE STATE LEGISLATURE

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# LEGISLATIVE RECORD

OF THE

**One Hundred And Seventeenth Legislature**

OF THE

**State Of Maine**

**VOLUME VII**

**SECOND REGULAR SESSION**

**Senate**

March 14, 1996 to April 3, 1996

**SECOND CONFIRMATION SESSION**

August 1, 1996

**SECOND SPECIAL SESSION**

**House of Representatives**

September 5, 1996 to September 7, 1996

**Senate**

September 5, 1996 to September 7, 1996

**Index to 117<sup>th</sup> Legislative Record**

**HOUSE AND SENATE LEGISLATIVE SENTIMENTS**

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

In Senate Chamber  
Thursday  
March 14, 1996

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

Prayer by the Honorable Stephen E. Hall of Piscataquis.

SENATOR STEPHEN E. HALL: Thank you. Welcome this morning. Will you bow your heads please?

Lord, we give thanks for the glorious spring day that we are about to have. Thank You for the last few. We ask Your guidance in looking over our members as we travel from home to Augusta to do the peoples' business. We also ask You a special looking over of our families while we are away from home. Please give us the wisdom to continue our business swiftly, with fairness, and common sense. Amen.

Reading of the Journal of Yesterday.

Off Record Remarks

Out of order and under suspension of the Rules, on motion by Senator KIEFFER of Aroostook, the following Joint Order:

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, March 19, 1996, at 9:00 o'clock in the morning.

S.P. 746

Which was READ and PASSED.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

PAPER FROM THE HOUSE  
Non-concurrent Matter

JOINT ORDER relative to the Joint Standing Committee on TRANSPORTATION reporting out a bill on logo signs.

H.P. 1340

In House, March 7, 1996, READ and PASSED.

In Senate, March 12, 1996, INDEFINITELY POSTPONED, in NON-CONCURRENCE.

Comes from the House, that Body having INSISTED.

On motion by Senator KIEFFER of Aroostook, Tabled until Later in Today's Session, pending FURTHER CONSIDERATION.

COMMUNICATIONS

The Following Communication:

STATE OF MAINE  
ONE HUNDRED AND SEVENTEENTH LEGISLATURE  
COMMITTEE ON HUMAN RESOURCES

March 13, 1996

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

Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

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

L.D. 1772 An Act to Create a Uniform Health Information System

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

Sincerely,

S/Sen. Joan M. Pendexter S/Rep. Michael J. Fitzpatrick  
Senate Chair House Chair  
S.C. 518

Which was READ and, with Accompanying Bill, ORDERED PLACED ON FILE.

The Following Communication:

STATE OF MAINE  
ONE HUNDRED AND SEVENTEENTH LEGISLATURE  
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS

March 13, 1996

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

Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

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

L.D. 1786 An Act to Transfer the Agricultural Education Consultant to the Department of Agriculture, Food and Rural Resources

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

Sincerely,

S/Sen. Mary E. Small S/Rep. Wendy L. Ault  
Senate Chair House Chair  
S.C. 519

Which was READ and, with Accompanying Bill, ORDERED PLACED ON FILE.

The Following Communication:

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

March 13, 1996

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

State House

Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

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

L.D. 1692 An Act to Improve Local Control over Liquor Licensing

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

Sincerely,

S/Sen. Norman K. Ferguson, Jr. S/Rep. Harry G. True  
Senate Chair House Chair  
S.C. 520

Which was READ and, with Accompanying Bill, ORDERED PLACED ON FILE.

The Following Communication:

STATE OF MAINE  
DEPARTMENT OF PUBLIC SAFETY  
MAINE CRIMINAL JUSTICE ACADEMY  
93 SILVER STREET  
WATERVILLE, MAINE 04901

March 7, 1996

May Ross  
Secretary of the Senate  
State House Station #3  
Augusta, ME 04333  
Dear Ms. Ross:

Please find enclosed a copy of the application and strategy submitted to the Bureau of Justice Assistance for funding of the FY 96 Edward Byrne Memorial State and Local Law Enforcement Assistance Formula Grant Program.

The program requires that the application be submitted to the State Legislature or its designated body for review. Unless I receive further instructions, I will consider that the Department of Public Safety has fulfilled its obligations in this area.

Sincerely,  
S/ALFRED SKOLFIELD  
Commissioner  
S.C. 521

Which was READ and, with Accompanying Papers, referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS.

**COMMITTEE REPORTS**

**House**

**Ought to Pass As Amended**

The Committee on LEGAL AND VETERANS AFFAIRS on Bill "An Act to Clarify the Process for Referendum Recount"

H.P. 1350 L.D. 1851

Reported that the same Ought to Pass pursuant to Public Law 1995, chapter 506, section 2.

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 LATER ASSIGNED FOR SECOND READING.

The Committee on AGRICULTURE, CONSERVATION AND FORESTRY on Bill "An Act to Reinstate the Maine Meat Inspection Act"

H.P. 1050 L.D. 1469

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-749).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-749).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-749) READ and ADOPTED, in concurrence.

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

The Committee on CRIMINAL JUSTICE on Bill "An Act to Amend the Dispositional Alternatives for Juveniles Adjudicated to Have Committed Gross Sexual Assault upon 2 or More Child Victims"

H.P. 1234 L.D. 1694

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-752).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-752).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-752) READ and ADOPTED, in concurrence.

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

The Committee on JUDICIARY on Bill "An Act to Change the Maine Rule of Evidence That Currently Allows the Admission of Subsequent Remedial Measures as Evidence of Negligence"

H.P. 244 L.D. 346

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-754).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-754).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-754) READ and ADOPTED, in concurrence.

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

The Committee on JUDICIARY on Bill "An Act Regarding Wrongful Death Actions"

H.P. 546 L.D. 742

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-755).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-755).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-755) READ and ADOPTED, in concurrence.

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

The Committee on JUDICIARY on Bill "An Act to Amend the Laws Relating to Recovery for Property Damage"

H.P. 1246 L.D. 1708

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-753).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-753).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-753) READ and ADOPTED, in concurrence.

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

The Committee on **MARINE RESOURCES** on Bill "An Act to Restrict the Taking of Eels Less than 6 Inches in Length from Maine Coastal Waters" (Emergency)  
H.P. 137 L.D. 185

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-759).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-759) AS AMENDED BY HOUSE AMENDMENT "B" (H-763),** thereto.

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-759) **READ.**

House Amendment "B" (H-763) to Committee Amendment "A" (H-759) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-759) as Amended by House Amendment "B" (H-763) thereto, **ADOPTED**, in concurrence.

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

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

The Committee on **TRANSPORTATION** on Bill "An Act to Exempt Working Rural Mail Carriers from the Seat Belt Law"  
H.P. 1265 L.D. 1740

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-747).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-747) AS AMENDED BY HOUSE AMENDMENT "A" (H-758),** thereto.

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-747) **READ.**

House Amendment "A" (H-758) to Committee Amendment "A" (H-747) **READ.**

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

Senator **HALL:** Thank you, Mr. President. I would like to pose a question through the Chair. I would ask if there is anyone in the Chamber today that would like to explain House Amendment 758? Thank you.

**THE PRESIDENT:** The Senator from Piscataquis, Senator Hall, has posed a question through the Chair to any Senator who may care to respond.

On motion by Senator **HALL** of Piscataquis, Tabled until Later in Today's Session, pending **ADOPTION** of House Amendment "A" (H-758) to Committee Amendment "A" (H-747).

**Divided Report**

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** reporting "**Ought to Pass**" pursuant to Joint Order (H.P. 1290) on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Penobscot County for the Year 1996 (Emergency)  
H.P. 1348 L.D. 1845

Signed:

Senators:

AMERO of Cumberland  
CARPENTER of York  
LONGLEY of Waldo

Representatives:

AHEARNE of Madawaska  
SAXL of Bangor  
GERRY of Auburn  
ROSEBUSH of East Millinocket  
ROBICHAUD of Caribou  
SAVAGE of Union  
LOOK of Jonesboro

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

Signed:

Representative:

LANE of Enfield

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

Which Reports were **READ.**

The Chair moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence.

Senator **HALL** of Piscataquis requested a Division.

**THE PRESIDENT:** The pending question before the Senate is the **ACCEPTANCE** of the Majority **OUGHT TO PASS** 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.

15 Senators having voted in the affirmative and 6 Senators having voted in the negative, the Majority **OUGHT TO PASS** Report **ACCEPTED**, in concurrence.

The Bill **READ ONCE.**

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

**Senate**

**Ought to Pass**

Senator **CARPENTER** for the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Establish the Boundary Line between the Town of Cornville and the Towns of Solon and Athens"

S.P. 679 L.D. 1745

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

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

The Bill **READ ONCE.**

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

**Ought to Pass As Amended**

Senator **FERGUSON, JR.** for the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Amend the Law Concerning Tobacco Use by Juveniles"

S.P. 628 L.D. 1635

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-471).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (S-471) **READ** and **ADOPTED.**

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

**Divided Report**

The Majority of the Committee on **LABOR** reporting **"Ought to Pass"** pursuant to Resolve 1995, chapter 39, Bill "An Act to Clarify the Early Retirement Incentives Law" (Emergency)

S.P. 745 L.D. 1856

Signed:

Senators:

BEGLEY of Lincoln  
MILLS of Somerset

Representatives:

HATCH of Skowhegan  
CHASE of China  
JOY of Crystal  
WINSOR of Norway  
JOYCE of Biddeford  
STEDMAN of Hartland

The Minority of the same Committee reporting **"Ought to Pass"** pursuant to Resolve 1995, chapter 39, Bill "An Act to Limit the Liability of Employers for the Costs of Early Retirement Incentives" (Emergency).

S.P. 744 L.D. 1855

Signed:

Senator:

RAND of Cumberland

Representatives:

SAMSON of Jay  
LEMAIRE of Lewiston  
TUTTLE, JR. of Sanford  
PENDLETON, JR. of Scarborough

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 **BANKING AND INSURANCE** on Bill "An Act to Allow the Diagnosis of Biologically-based Mental Illness by Licensed Psychologists" (Emergency)

S.P. 622 L.D. 1630

Reported that the same **Ought to Pass** as **Amended** by **Committee Amendment "A" (S-472)**.

Signed:

Senators:

ABROMSON of Cumberland  
SMALL of Sagadahoc

Representatives:

VIGUE of Winslow  
JONES, JR. of Pittsfield  
CAMPBELL of Holden  
GUERRETTE of Pittston  
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-473)**.

Signed:

Senator:

MCCORMICK of Kennebec

Representatives:

GATES of Rockport  
SAXL of Portland  
MAYO, III of Bath  
CHASE of China  
THOMPSON of Naples

Which Reports were **READ**.

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

**Off Record Remarks**

**SECOND READERS**

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

**House**

Resolve, for Laying the County Taxes and Authorizing Expenditures of Piscataquis County for the Year 1996 (Emergency)

H.P. 1345 L.D. 1840

Bill "An Act to Distribute the Assets of the Maine Sardine Council to Council Members upon Dissolution of the Council by the Legislature"

H.P. 1346 L.D. 1841

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

**House As Amended**

Bill "An Act to Exempt Certain Small Businesses from Paying the Annual Fee to the Public Drinking Water Fund"

H.P. 99 L.D. 134

(C "A" H-746)

Bill "An Act to Amend the Charter of the East Boothbay Water District" (Emergency)

H.P. 1181 L.D. 1620

(H "A" H-760 to C "A" H-750)

Bill "An Act to Amend the Protection from Abuse and Protection from Harassment Statutes"

H.P. 1279 L.D. 1758

(C "A" H-751)

Bill "An Act to Create the Motor Carrier Training Advisory Board"

H.P. 1299 L.D. 1782

(C "A" H-748)

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

Bill "An Act to Ensure That Basic Health Care Needs of Women Are Covered in Insurance Policies"

H.P. 976 L.D. 1385

(S "A" S-469 to C "A" H-707)

Which was **READ A SECOND TIME**.

On motion by Senator **KIEFFER** of Aroostook, Tabled until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED, AS AMENDED**, in **NON-CONCURRENCE**.

**Senate**

Bill "An Act to Authorize the Maine Photographic Workshops to Grant Degrees"

S.P. 682 L.D. 1747

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

Sent down for concurrence.

**Senate As Amended**

Bill "An Act to Clarify and Amend Provisions of the Workers' Compensation Act Relating to Workers' Compensation Self-insurance"

S.P. 688 L.D. 1757

(C "A" S-468)

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

Sent down for concurrence.

Off Record Remarks

**ENACTORS**

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

An Act to Make Available Coverage for Mental Health Services Provided by Counseling Professionals Who Are Licensed to Assess and Treat Intrapersonal and Interpersonal Problems

S.P. 38 L.D. 68  
(C "B" S-441)

An Act to Amend the Law as It Pertains to Payment of Rent by a Blind or Visually Impaired Individual Who Operates a Vending Facility

S.P. 610 L.D. 1614  
(H "A" H-744 to C  
"A" S-435)

An Act to Allow Municipalities and Regions to Include Beneficial Use of Waste Originated in Their Jurisdiction As Credit in Demonstrating Recycling Progress

H.P. 1209 L.D. 1659  
(C "A" H-739)

An Act to Transfer the Responsibility for Air Search and Rescue from the Commissioner of Transportation to the Chief of the State Police

H.P. 1229 L.D. 1682  
(C "A" H-740)

An Act to Amend the Unorganized Territory Tax Laws

H.P. 1237 L.D. 1697  
(C "A" H-736)

An Act to Clarify the Landowner Liability Laws

H.P. 1245 L.D. 1707  
(C "A" H-730)

An Act to Repeal the Sunset and Reporting Requirements Regarding Transportation of Unscheduled Freight in Casco Bay

H.P. 1302 L.D. 1783

An Act to Place Penobscot Land in Trust

H.P. 1306 L.D. 1787

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

An Act to Prohibit Home Repair Fraud

H.P. 918 L.D. 1294  
(C "A" H-731)

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

An Act to Limit the Use of Certificates of Participation

H.P. 952 L.D. 1341  
(C "A" H-738)

On motion by Senator **BUSTIN** of Kennebec, Tabled until Later in Today's Session, pending **ENACTMENT**.

An Act Creating a Process for Municipalities to Withdraw from the Cobbossee Watershed District

H.P. 1176 L.D. 1608  
(C "A" H-734)

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

Senator **McCORMICK:** Thank you, Mr. President. In regards to this item, I ask for a Division, and would just note to the body that were this to pass, and the philosophy behind it to pass, county government would fall apart. I have many towns in my district who would love to not be paying for the sheriff services; and this bill basically allows any town to opt out of the Cobbossee Watershed, which is one of the few regional land use planning bodies that we have in this State; and it works very well for all the towns in the district. So, I would ask for a Division. Thank you.

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

On motion by Senator **CAREY** of Kennebec, Tabled until Later in Today's Session, pending **ENACTMENT**.

An Act Concerning the Seasonal Sale of Reformulated Gasoline

H.P. 1201 L.D. 1651  
(C "A" H-741)

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

Senator **RAND:** Thank you, Mr. President. In regard to this item, an Act Concerning the Seasonal Sale of Reformulated Gasoline, I would like a member of the committee to please explain the committee amendment, before we vote on this.

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

Senator **LORD:** Thank you, Mr. President, my Learned Colleagues. The amendment directs the Department of Environmental Protection to work with the E.P.A. in Washington to see if we can come up with regulation changes to allow us to have this seasonal sale of gasoline. There is a bill in Washington that is setting on somebody's desk down there that would allow states to have this seasonal sale of the reformulated gas, but it doesn't seem to be moving anywhere. What we are trying to do is get movement so this could happen. There is no reason in the world why we should have reformulated gas in the winter time. We are trying to make a move to have it just during the four months when it is necessary in the summer. Thank you.

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

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

**COMMITTEE REPORT**  
**House**

**Divided Report**

The Majority of the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Include Sexual Contact in the Definition of Prostitution"

H.P. 1216 L.D. 1666

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (H-712).

Signed:

Senators:

**BENOIT** of Franklin  
**HALL** of Piscataquis

Representatives:

CLARK of Millinocket  
BUNKER, JR. of Kossuth Township  
GOOLEY of Farmington  
PEAVEY of Woolwich  
MCALEVEY of Waterboro  
CLUKEY of Houlton  
THOMPSON of Naples  
WHEELER of Bridgewater  
REED of Dexter

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

Signed:

Senator:

O'DEA of Penobscot

Representative:

JOHNSON of South Portland

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-712).

Which Reports were READ.

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

---

Senate at Ease  
Senate called to order by the President.

---

Senator BUSTIN of Kennebec 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 BUSTIN of Kennebec, RECESSED until 10:30 o'clock this morning.

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After Recess  
Senate called to order by the President.

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Off Record Remarks

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The Chair laid before the Senate the first Tabled and Later Today Assigned matter:  
JOINT ORDER relative to the Joint Standing Committee on TRANSPORTATION reporting out a bill on logo signs.

H.P. 1340

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

Pending - FURTHER CONSIDERATION.

(In House, March 7, 1996, READ and PASSED.)

(In Senate, March 12, 1996, INDEFINITELY POSTPONED, in NON-CONCURRENCE.)

(In House, March 13, 1996, that Body INSISTED.)

On motion by Senator KIEFFER of Aroostook, the Senate RECEDED and CONCURRED.

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

HOUSE REPORT - from the Committee on TRANSPORTATION on Bill "An Act to Exempt Working Rural Mail Carriers from the Seat Belt Law" H.P. 1265 L.D. 1740

Report - Ought to Pass as Amended by Committee Amendment "A" (H-747).

Tabled - earlier in the day by Senator HALL of Piscataquis.

Pending - ADOPTION of House Amendment "A" (H-758) to Committee Amendment "A" (H-747).

(In House, March 13, 1996, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-747) AS AMENDED BY HOUSE AMENDMENT "A" (H-758), thereto.)

(In Senate, earlier in the day, Report READ and ACCEPTED, in concurrence. Committee Amendment "A" (H-747) READ. House Amendment "A" (H-758) to Committee Amendment "A" (H-747) READ.)

THE PRESIDENT: The pending question before the Senate is ADOPTION of House Amendment "A" (H-758) to Committee Amendment "A" (H-747).

The Chair ordered a Division.

---

Senate at Ease  
Senate called to order by the President.

---

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.

17 Senators having voted in the affirmative and 8 Senators having voted in the negative, House Amendment "A" (H-758) to Committee Amendment "A" (H-747) ADOPTED, in concurrence.

Committee Amendment "A" (H-747), as Amended by House Amendment "A" (H-758), thereto, ADOPTED, in concurrence.

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

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

SENATE REPORTS - from the Committee on LABOR.

Majority - Ought to Pass Bill "An Act to Clarify the Early Retirement Incentives Law" (Emergency) S.P. 745 L.D. 1856. (8 members)

Minority - Ought to Pass Bill "An Act to Limit the Liability of Employers for the Costs of Early Retirement Incentives" (Emergency) S.P. 744 L.D. 1855. (5 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 MILLS of Somerset moved that the Senate ACCEPT the Majority OUGHT TO PASS Report (S.P. 745 L.D. 1856).

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

Senator MILLS: Mr. President, Men and Women of the Senate. This bill has a lengthy and tortured history. I am not going to attempt to explain it on the floor. It is urgent that we do something today, as an emergency, in order to relieve a situation that we created in 1993 at a time when we passed a law that required school districts to reimburse the State Retirement System in the event that teachers retired early after receiving an incentive to do so from the



local district. There are, we believe, approximately eight districts that offered these incentives after the bill was passed. Last year we granted a moratorium on the impact of the law. This year we formed, within the Labor Committee, a small committee to meet with the Retirement System, and other interested parties, to develop a means, or a recommendation, for what we might do in regard to this liability that we created in 1993. It was considered that we should hold to the obligation that we created, that we should grant a ten-year extension of time in which to make the payments that are necessary. Interest will be charged. There may be, and there are, actually, one or two school districts that are very deeply impacted by the law that we passed in 1993. If we pass today, L.D. 1856, it will, at the very least, give these school districts ten years in which to meet the obligation. If we do not pass L.D. 1856, it is my understanding that the obligation becomes due and payable in about a month, in its entirety. If we pass L.D. 1856, and all of these school districts who are adversely impacted by the law are given time in which to make their payments, if there are individual school districts who can make a case for special appropriations in the next legislature, they will have that opportunity in 1997. I think that may prove to be the ultimate solution for those who were impacted in an unusual way. For the sake of preserving consistency in our law, and for the sake of bringing about some interim relief, I think it is important that this body pass L.D. 1856 as it was drafted by our sub-committee, and adopted by the Labor Committee as a whole. Thank you.

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

Senator **RAND:** Thank you, Mr. President, Men and Women of the Senate. I would urge you to reject the majority report, so that we can go on to accept the minority report. Everything that the good Senator from Somerset, Senator Mills, has said is absolutely true. It is urgent that we pass something today to alleviate a pending problem for these school districts, which would be that they could be charged the entire amount that they have been assessed, and have to pay that, with interest, in thirty days. I do not believe that the majority report is the right, fair, or just way to go about this. While we have been presented with a problem that needs a solution, this L.D. is unnecessarily punitive; and it imposes an undue hardship on eight school units, with the possibility of more units to be added at a later date. The circumstances leading up to this proposal, actually, reads somewhat like a comedy of errors and is full of well-intentioned players. The Legislature did, indeed, act in haste in 1993. The Maine State Retirement System was very slow in rulemaking and supplying the information that school units would need. The sub-committee, which Senator Mills spoke of, of which I was a member of, did, indeed, put together this proposal; but we failed to ask a couple of very crucial questions in a timely manner. Those questions were answered moments, just moments, before the final vote was taken. So, if we want to blame anybody, there is plenty of blame to go around. I believe that we should be in the business of enacting policies that are as fair and just as humanly possible. If we have made an error in one of the steps along the way, I think it is grossly unfair to make our school children suffer and pay the consequences, which is exactly what will happen if this L.D. is passed.

As I mentioned previously, in 1993, as part of the budget, a proposal was made by the Retirement Committee that would, as the good Senator has told you, require that if an early retirement incentive was offered by a school district after July 1 of 1993, and a teacher did, indeed, retire, then that school district was responsible for all of the actuarial costs involved. I believe that that is a fair and just statute. I don't think anyone has a problem with the statute. Please remember that if a teacher takes an early retirement, the State pays the actuarial costs, the employer, the State's share of the retirement system cost. That doesn't change. What we have here is the problem of whether an early retirement incentive was, indeed, what caused these teachers to retire early. We have absolutely no proof that that is the case. The Retirement System was unable to provide us with the numbers of people who retired before this bill went into effect and the number of persons who retired, or took an early retirement, I should say, after this bill was in effect. To continue with this comedy of errors, it was three months after the budget bill was passed that notification was sent out to school units of this change in the law. I have just had passed out the notification. I think an astute lawyer could make a good case that this was not sufficient notification to be given of a very substantial change in this law, in the retirement incentive law. It wasn't until eighteen months after the law that the Maine State Retirement System formulated any types of rules and was able to present school districts with an estimate of the cost. I think if you read this notification, you would have to agree that you would have to know something about actuarial projections in order to make any type of assessment as to what it would cost your school unit if you did, indeed, include early retirement incentives in your next contract. I would maintain that most school units would not have a person of that caliber who reads these newsletters. So, we have the situation where this L.D. actually intends to go back three years and penalize, I truly believe, unsuspecting school units in an extremely harsh manner. There is another way out of this.

Last spring, it came to the attention of this body that there was, indeed, a real significant problem out there, because it wasn't until last spring, in 1995, before school units knew the impact of this legislation that was put in a budget document, remember. So, this Legislature passed a moratorium on the implementation of that statute that was in the 1993 budget, because we knew a serious problem was out there. During the interim, between last spring and now, the Maine State Retirement System sent out questionnaires to all of the school districts, asking them if they did have early retirement incentives. One hundred and fifty two school units responded. Of the 152 school units, it was decided that \$9 million worth of early retirements had taken place. The actuaries have already, remember, figured in a cost for early retirement because the State does pick up that share. But, using criteria that didn't exist until last week, the sub-committee put it together, the Maine State Retirement System decided that eight of these school districts did, indeed, offer early retirement incentives after the July 1993 deadline. Those eight school districts are: Jay, they are being assessed \$198,000; Lisbon, they are being

assessed \$271,000; Mechanic Falls, \$134,000; Scarborough, \$470,000; York, \$249,000; S.A.D. 25, Sherman Station, \$421,000; S.A.D. 52 in Turner, \$84,000; and S.A.D. 56 in Searsport, \$100,000. By some mechanism known only to the people over at the Maine State Retirement System, these eight school units were plucked out, set aside from the 152 who responded, and said they have got to pay. We received a lot of testimony at the very final meeting before the full committee voted on the recommendations of the sub-committee. It was new and different information. One very startling piece of information was that from a preliminary decision from the A.G.'s office was that if we do act before March 15, we can do anything we want. If we act before March 15, there will not be one penny attributed to the unfunded liability. The reasoning behind that was we had passed the moratorium on the statute and it was during that moratorium that the constitutional amendment was passed by the people. Therefore, according to this preliminary report from the A.G.'s office, not one penny will be chalked up to the unfunded liability. Remember, \$9 million worth of early retirements were taken, and only \$1.8 million has been ferreted out there and assigned to these eight districts. Of the school districts who did not respond, just didn't respond, they are not even addressed. So, we have no idea what is going on with them. This L.D. says, in effect, that these school units should have been smart enough, wise enough, they had notification and now they have to pay. But remember, it also requires, the L.D. requires, that the Retirement System look at the remaining 144 again. There is a good possibility that some of these units could be added to the list of the eight.

As the good Senator from Somerset has told you, with no legislation, the Retirement System can demand full payment within a month, plus interest. I do not advocate no legislation at this time; but if you will vote against the pending motion, there will be an opportunity to pass legislation that will not impact the unfunded liability, and treats these school units, of which my school unit is not affected, by the way, in a fair and just manner. The other thing I would just like to add is that it is my belief that all of these decisions were made in an arbitrary and capricious manner and we will certainly be faced with a lawsuit. I can see a class action suit following this. I think that that is something to bear in mind. There is no proof, at all, offered, that the actuarial assessments do not cover this \$1.8 million, as they do cover the rest of the \$9 million. In fact, in closing, I would like to say that for the last years that the Retirement System has numbers, the actuaries actually underestimated, by large numbers, the amount of people who would retire, by large numbers. In one instance they said 100 people would retire, in reality almost 500 retired. This did not result in an unfunded liability, and this did not result in an increase in the State's share. Contrary to that, because of good experience and wise investments, the State's share actually went down. I would need a lot more proof before I saddle these poor districts with these kinds of bills. I urge you, please, to reject the pending motion. Mr. President, I request a Roll Call.

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

Off Record Remarks

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Senate at Ease  
Senate called to order by the President.

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Off Record Remarks

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

Senator **CLEVELAND:** Thank you, Mr. President. I appreciate the opportunity to make just a few remarks to the members of the Senate. I want to share with you that I won't be supporting the majority report today. I'm not going to be supporting the majority report for the following reasons. First, I do believe that it is appropriate that if substantial incentive bonuses, and the like, are being offered at the local level, that increase retirement costs, that that is a decision that ought to be made locally and they ought to be clear that they have that responsibility. My concern, however, is that to put these kinds of penalties on the community really require that there was clear understanding and knowledge of the consequences and the penalties that would be involved. My understanding is that this original statute was attached to the overall budget bill. It didn't have a public hearing. There was not wide knowledge about it. The information, if disseminated, was done in a way that was not as informative as it could be. I have talked to a number of the districts that are affected; and my understanding is that they either did not know of this provision, or if they did, they had no real sense of what the penalties and the consequences might be; and, I think, lacked the opportunity to really make the kind of informed judgement that they ought to have. I think that's a prerequisite to putting these kinds of penalties on these small, little school districts that are going to be enormous for them to try to pay, even over a ten-year period of time. At the same time we are taking some \$10 million worth of penalties for longevity, sick pay, and bonuses, and we are forgiving those. Yet on the \$1.8 million that comes into this other category, we are saying that we can't address those. I think it is far more prudent to look at the minority report, which addresses both of those issues and then says everybody is informed. We know what the ground rules are. From now on, if anyone proceeds in this matter, you know there are going to be serious consequences. For those reasons, I will not be supporting this motion, and hope to have the opportunity to support the minority report. Thank you.

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

Senator **BEGLEY:** I was hoping to avoid further debate. This has not been a rushed issue. This was brought to our attention some time ago. At that time the school management representative brought it to our attention. The towns had been told what their costs were going to be; and they, at that time, asked could there be a moratorium placed so that they would not have to do it within thirty days. We put the moratorium on. At that time, we asked representatives of the Maine School Management, representatives of the Retirement System, to get

together and to go over the proposals and the ideas. The law had been there. In the meantime, school districts did call the Retirement System and said, "What is the story on this new part of the law that says that we are responsible?" The Retirement System told them and they said, "Thank you very much. We are not going to buy into that at all." Other school districts have their own right to do as they please. Some of the superintendants that we heard in the session inherited this issue. They didn't say they did it, they inherited it. There were others who said, "Yes, we knew. We didn't know the impact." So we then, after the moratorium, set up a sub-committee, again taking time, and deliberation, including all of the parties, Maine School Management representing those school districts. That sub-committee came back unanimously for the proposal of what is before you now. It was then, and only then, that they decided that maybe, because of the situation, it won't cost as much if we go this other way. The bill is \$1.3 million, \$1.5 million, or \$1.8 million. Somebody is going to pay that. I don't know how you get around that. The retirements have been given. The unfunded aspect of that is going to have to be paid for. You can do it any number of ways you want to; but the bill that was passed in 1993, said to us, "For goodness sakes pay your share as you go along. Don't put it off, as we did, for twenty years, and end up with an unfunded liability that forced us to go and borrow over a thirty-year period." Those people who are sympathetic to these school districts, I have said to you all along, all you have to do is submit a bill, an appropriation, that will take care of these so-called real problems. If you can get it passed and it comes out of a budget, wonderful! But please, don't tell me we didn't plan. Don't tell me we didn't study. Please don't tell me we didn't come up with a solution. It is still possible for those people to say to any legislator, please help me out, and let's see if you can get it into a Governor's budget, or into an appropriation, but please, do not sweep it under the rug. Thank you.

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

Senator **RAND:** Thank you, Mr. President, Men and Women of the Senate. Much of what, or all of what the good Senator has said is true. If you look at early retirement as a cause for the problem we have with unfunded liability in the retirement system, that is absolutely not accurate. Early retirement has always been paid for, actuarially accounted for, by the employer, in this case, the State. There is not one early retirement that added one penny at any time to the unfunded liability. The good Senator is correct. We had a unanimous sub-committee report; but we were operating under the assumption that if we didn't do this, there would be an unfunded liability. That notion was dispelled moments before the vote, by the A.G.'s office. It is true that early retirements cost the Retirement System, or the one who pays it, the State. That is absolutely true, and that has been actuarially accounted for for all these many long years. The problem arises when we stuck a new wrinkle into the law in 1993 that people, I believe, did not understand. If they did knowingly negotiate and make contract early retirement incentives, I guarantee you they had no idea of what the impact was. When they read that little notice, by their own testimony, they thought that the

decrease that the teachers took in their retirement benefits covered the costs. They had no idea. The Maine State Retirement System could not give them an idea until March of 1995. We had no rules or regulations or criteria as to what an early retirement incentive is until last week. Now I ask you, Men and Women of the Senate, is this the way that we should be going about business? Going back three years and somehow, by magic I guess, picking eight school districts out of 152, and saying, "There, we have decided, by the way, before the criteria has been written, "You're responsible. You knew what you were doing. You have to cough up," some of the small towns, "half a million dollars." We made mistakes. I think we should be big enough to admit that. We can fix this problem without adding one single penny to the unfunded liability. It is true that somebody has to pay. The truth is the State has always paid. Also, I can guarantee that there will never be an early retirement incentive in any school contract from now until the end of time. Now people do know what's going on. Labor and management are well aware of what is going on and these contracts are being written with those incentives, early retirement incentives, excluded. But, to lay the blame for unfunded liability on any early retirement is absolute fallacy. It just does not wash. Those costs have been accounted by the actuaries who tell the State what their share has to be. Please, vote against the majority report. We do have to pass something and we can go on to take a good look at the minority report. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **MILLS** of Somerset that the Senate **ACCEPT** the Majority **OUGHT TO PASS** on L.D. 1856 Report.

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, BENOIT, CARPENTER, CASSIDY, CIANCHETTE, FERGUSON, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LORD, MILLS, PENDEXTER, SMALL, STEVENS,** and the **PRESIDENT, Senator BUTLAND**

**NAYS:** Senators: **BERUBE, BUSTIN, CAREY, CLEVELAND, ESTY, GOLDTHWAIT, LAWRENCE, LONGLEY, MICHAUD, O'DEA, PINGREE, RAND, RUHLIN**

**ABSENT:** Senators: **FAIRCLOTH, McCORMICK, PARADIS**  
19 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 3 Senators being absent, the motion by Senator **MILLS** of Somerset to **ACCEPT** the Majority **OUGHT TO PASS** on L.D. 1856 Report, **PREVAILED**.

The Bill **READ ONCE**.

Which was, under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**.

Sent down for concurrence.

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

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

SENATE REPORTS - from the Committee on **BANKING AND INSURANCE** on Bill "An Act to Allow the Diagnosis of Biologically-based Mental Illness by Licensed Psychologists" (Emergency)

S.P. 622 L.D. 1630

Majority - Ought to Pass as Amended by Committee Amendment "A" (S-472) (7 members)

Minority - Ought to Pass as Amended by Committee Amendment "B" (S-473) (6 members)

Tabled - earlier in Today's session by Senator KIEFFER of Aroostook.

Pending - ACCEPTANCE of Either Report.

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

On motion by Senator KIEFFER of Aroostook, Tabled 1 Legislative Day, pending ACCEPTANCE of Either Report.

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

Bill "An Act to Ensure that Basic Health Care Needs of Women are Covered in Insurance Policies"

H.P. 976 L.D. 1385

(S "A" S-469 to C "A" H-707)

Tabled - earlier in Today's session by Senator KIEFFER of Aroostook.

Pending - PASSAGE TO BE ENGROSSED, AS AMENDED, in NON-CONCURRENCE.

(In Senate, earlier in the day, READ A SECOND TIME.)

Senator KIEFFER of Aroostook requested a Division. On motion by Senator BUSTIN of Kennebec, Tabled 1 Legislative Day, pending PASSAGE TO BE ENGROSSED, AS AMENDED in NON-CONCURRENCE.

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

HOUSE REPORTS - from the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Include Sexual Contact in the Definition of Prostitution"

H.P. 1216 L.D. 1666

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-712) (11 members)

Minority - Ought Not to Pass (2 members)

Tabled - earlier in Today's session by Senator KIEFFER of Aroostook.

Pending - ACCEPTANCE of Either Report.

(In House, March 13, 1996, PASSED TO BE ENGROSSED, AS AMENDED, BY COMMITTEE AMENDMENT "A" (H-712).)

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

Senator BENOIT of Franklin 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 O'Dea.

Senator O'DEA: Thank you, Mr. President, Men and Women of the Senate. I would urge you to vote no on this motion, and to consider, briefly, that this issue has been dealt with very effectively at the local level. There are municipalities across the State that have dealt with it in one way or another. I would suggest that as long as it may be dealt with at a local level, that that is where we should leave the regulation of this. I don't think we need to go into an extended debate on the issue; but as long as there is a local remedy that works, I don't think it is harmful to have the communities have the

discussion at the local level to decide what is appropriate for the town or city where the people live. I just urge a no vote on this. Thank you.

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

Senator BENOIT: Thank you, Mr. President. May it please the Senate. I will stick to the issue just raised by Senator O'Dea, the local level, or home-rule issue. In the file that I have from Criminal Justice on this measure, a file made as a result of the public hearing, I am holding a letter here, the testimony of Mary Kahl, Corporate Counsel in South Portland, pointing out here over four or five pages, the difficulty South Portland had in enacting an ordinance that held up, finally. I guess they made two attempts at that, to get an ordinance that was held valid in court. The difficulties she points out is this, one of the difficulties, to enforce a local ordinance a city must gather evidence and take it to district court. Only after the city successfully pursues a series of enforcement actions is it possible to ask the court to close the business, and so forth. What we have here is, at the public hearing, Ellsworth residents came in, and people from Bangor and South Portland, and many towns and cities in Maine, asking for this law. I am a home-rule guy; but what good is home-rule when people can, and they do, operate these relaxation spas out of buses, we were told? They pass an ordinance in one town and just move the bus over to the next town and keep on operating. I suppose, with the number of counties that we have, you could keep these buses in operation for a while, waiting to get a local ordinance that took effect. I have heard argument made here, not in this Chamber, but the argument has been made that this should be left to home-rule, or local decision, and that to allow local ordinances to go forward, that to pass a general law will drive people underground. I would like to suggest to you how realistic it would be for anybody to drive a twenty-foot bus underground. So, while I am strongly in support of home-rule, we were shown at the Criminal Justice public hearing that home-rule has been tried across the State. It isn't working and people are coming to us for help. I think we ought to. 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 rise to support the words of the good Senator from Franklin, Senator Benoit. It is true that communities have advocated very strongly for home-rule in many circumstances. The thing that is somewhat unique about this issue is that I am not aware that there is a community out there where the people favor this. Therefore, from their perspective, to put every one of the 492 municipalities in the State of Maine through the process, and most of those do not have staff attorneys, do not have research capabilities, through the process of developing ordinance after ordinance, all of which would undoubtedly be different, is a rather inefficient way to do this. It is absolutely true that when the City of Ellsworth took action to ban this type of activity in their community, which they did, by the way, based on the fact that one of these businesses was located in a residential area, the employees of that business were spending their lunch hours and coffee breaks out of doors, in uniform, in residential areas, where there

were school children playing. The community was very concerned. They did pass an ordinance banning that. The business involved bought a bus, painted it pink and purple, named it Tiffany and moved to Dedham where they set up business there. The Town of Dedham then began the same process of contacting their State Representatives, asking for a change in the law to prevent this. Do we want to put every single community in Maine through the expense and difficulty of doing this? Although I am almost willing to guarantee that they probably would. Or do we simply want to pass one state law that will protect all of our communities, and particularly our children, from this type of business in these areas. I urge you to support the majority report. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **BENOIT** of Franklin 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.

21 Senators having voted in the affirmative and 5 Senators having voted in the negative, the motion by Senator **BENOIT** of Franklin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-712) **READ** and **ADOPTED**, in concurrence.

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

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Off Record Remarks

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

**PAPERS FROM THE HOUSE**

**House Papers**

**Pursuant to Resolve**

**LAND AND WATER RESOURCES COUNCIL**

The **LAND AND WATER RESOURCES COUNCIL**, pursuant to Resolve 1995, chapter 21 asked leave to submit its findings and report, pursuant to Joint Rule 20, that the accompanying Bill "An Act to Reorganize and Redirect Aspects of the Site Location of Development Laws"

H.P. 1352 L.D. 1853

Be referred to the Committee on **NATURAL RESOURCES** for Public Hearing and printed.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill referred to the Committee on **NATURAL RESOURCES** and **ORDERED PRINTED**.

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

The Bill referred to the Committee on **NATURAL RESOURCES**, in concurrence.

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**Pursuant to Resolve**  
**LAND AND WATER RESOURCES COUNCIL**

The **LAND AND WATER RESOURCES COUNCIL**, pursuant to Resolve 1995, chapter 21 asked leave to submit its findings and report, pursuant to Joint Rule 20, that the accompanying Bill "An Act to Implement the Recommendations of the Land and Water Resources Council Regarding Gravel Pits and Rock Quarries"

H.P. 1353 L.D. 1854

Be referred to the Committee on **NATURAL RESOURCES** for Public Hearing and printed.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill referred to the Committee on **NATURAL RESOURCES** and **ORDERED PRINTED**.

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

The Bill referred to the Committee on **NATURAL RESOURCES**, in concurrence.

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

**SECOND READERS**

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

**House**

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Penobscot County for the Year 1996 (Emergency)

H.P. 1348 L.D. 1845

Bill "An Act to Clarify the Process for Referendum Recount"

H.P. 1350 L.D. 1851

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

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**House As Amended**

Bill "An Act to Change the Maine Rule of Evidence That Currently Allows the Admission of Subsequent Remedial Measures as Evidence of Negligence"

H.P. 244 L.D. 346

(C "A" H-754)

Bill "An Act Regarding Wrongful Death Actions"

H.P. 546 L.D. 742

(C "A" H-755)

Bill "An Act to Reinstate the Maine Meat Inspection Act"

H.P. 1050 L.D. 1469

(C "A" H-749)

Bill "An Act to Amend the Dispositional Alternatives for Juveniles Adjudicated to Have Committed Gross Sexual Assault upon 2 or More Child Victims"

H.P. 1234 L.D. 1694

(C "A" H-752)

Bill "An Act to Amend the Laws Relating to Recovery for Property Damage"

H.P. 1246 L.D. 1708

(C "A" H-753)

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

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**Senate**

Bill "An Act to Establish the Boundary Line between the Town of Cornville and the Towns of Solon and Athens"

S.P. 679 L.D. 1745

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

Sent down for concurrence.

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**Senate As Amended**

Bill "An Act to Amend the Law Concerning Tobacco Use by Juveniles"

S.P. 628 L.D. 1635  
(C "A" S-471)

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

Sent down for concurrence.

**Off Record Remarks**

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

**PAPER FROM THE HOUSE**

**Joint Resolution**

The following Joint Resolution:

**JOINT RESOLUTION RECOGNIZING PEACE EFFORTS IN NORTHERN IRELAND**

**WHEREAS**, the celebration of St. Patrick's Day reminds us of the ongoing quest for peace in Northern Ireland; and

**WHEREAS**, recent acts of violence have threatened that peace process; and

**WHEREAS**, the people of Maine and the people of Ireland have been deeply touched by the 2 1/2 decades of violence in Northern Ireland; and

**WHEREAS**, former United States Senator George Mitchell of Maine has been appointed to assist in the peace negotiations and to help establish economic stability; now, therefore, be it

**RESOLVED**: That We, the members of the 117th Legislature now assembled in the Second Regular Session, extend our heartfelt support and encouragement for efforts to bring about a lasting peace; and be it further

**RESOLVED**: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to His Excellency, Dermot A. Gallagher, Ambassador of Ireland and the Honorable George J. Mitchell.

H.P. 1354

Comes from the House **READ** and **ADOPTED.**

Which was **READ.**

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

Senator **RUHLIN**: Thank you, Mr. President. I would like to ask that all members of this Senate recognize that the only thing we need for peace in Ireland is for England to remove its boots from Irish soil, to end the ages of discrimination against Irish people by a conquering army. Therefore, I would ask you to join with me today to defeat this resolution. Thank you.

**THE PRESIDENT**: The pending question before the Senate is **ADOPTION.**

The Chair ordered a Division.

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

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

11 Senators having voted in the affirmative and 10 Senators having voted in the negative, the Joint Resolution was **ADOPTED**, in concurrence.

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

**ORDER**

**Joint Order**

On motion by Senator **ABROMSON** of Cumberland, the following Joint Order:

**ORDERED**, the House concurring, that the Joint Standing Committee on Banking and Insurance report out, to the Senate, legislation on incremental health insurance reform.

S.P. 750

Which was **READ** and **PASSED.**

Sent down for concurrence.

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

**ENACTOR**

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

**Emergency**

An Act Regarding the Harvesting of Eels and Elvers

H.P. 137 L.D. 185  
(H "B" H-763 to C  
"A" H-759)

Senator **KIEFFER** of Aroostook moved to Table Until Later in Today's Session, pending **ENACTMENT.**

The Chair ordered a Division.

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.

**Senate at Ease**

Senate called to order by the President.

Senator **KIEFFER** of Aroosook requested and received Leave of the Senate to withdraw his motion to Table until Later in Today's Session, pending **ENACTMENT.**

**Off Record Remarks**

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

**Off Record Remarks**

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

**Off Record Remarks**

On motion by Senator **HANLEY** of Oxford, **RECESSED** until 5:00 o'clock this afternoon.

After Recess  
Senate called to order by the President.

Off Record Remarks

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

An Act to Limit the Use of Certificates of Participation

H.P. 952 L.D. 1341  
C "A" (H-738)

Tabled - earlier in Today's session by Senator BUSTIN of Kennebec.

Pending - ENACTMENT.

(In House, March 13, 1996, PASSED TO BE ENACTED.)

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

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

An Act Creating a Process for Municipalities to Withdraw from the Cobbossee Watershed District

H.P. 1176 L.D. 1608  
C "A" (H-734)

Tabled - earlier in Today's session by Senator CAREY of Kennebec.

Pending - ENACTMENT.

(In House, March 13, 1996, PASSED TO BE ENACTED.)

On motion by Senator BUSTIN of Kennebec, Tabled until Later in Today's Session, pending ENACTMENT.

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

COMMUNICATIONS

The Following Communication:

STATE OF MAINE  
ONE HUNDRED AND SEVENTEENTH LEGISLATURE  
COMMITTEE ON TRANSPORTATION

March 14, 1996

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

Dear President Butland and Speaker Gwadosky:

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

L.D. 1826 An Act to Allow a Change in the Speed Limit on Certain Highways

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

Sincerely,

S/Sen. Albert G. Stevens, Jr. S/Rep. Donald A. Strout  
Senate Chair House Chair  
S.C. 522

Which was READ and, with Accompanying Bill, ORDERED PLACED ON FILE.

The Following Communication:

117TH MAINE LEGISLATURE

March 14, 1996

Senator Jeffrey H. Butland  
Representative Theone F. Look  
Chairpersons  
Joint Standing Committee on Marine Resources  
117th Legislature  
Augusta, Maine 04333

Dear Senator Butland and Representative Look:

Please be advised that Governor Angus S. King, Jr. has nominated Marshall E. Alexander of Biddeford, William L. Guptill, Jr. of Addison and Jennifer S. Bichrest of Brunswick for appointment and Robert J. Peacock, II of East Machias and J. Peter Angis of Scarborough for reappointment as members of the Marine Resources Advisory Council.

Pursuant to Title 12 MRSA, Section 6024, these nominations will require review by the Joint Standing Committee on Marine Resources and confirmation by the Senate.

Sincerely,  
S/Jeffrey H. Butland  
President of the Senate  
S/Dan A. Gwadosky  
Speaker of the House  
S.P. 751

Which was READ and referred to the Committee on MARINE RESOURCES.

Sent down for concurrence.

The Following Communication:

THE MAINE SENATE  
OFFICE OF THE PRESIDENT  
STATE HOUSE STATION 3  
AUGUSTA, ME 04333

March 14, 1996

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

Dear Madame Secretary:

Please be advised I have made the following appointments:

Select Committee to Study the Health Effects of Reformulated Gasoline:

Senator Philip Harriman of Yarmouth

Senator Richard Carey of Belgrade

Please let me know if you have any questions regarding these appointments.

Sincerely,  
S/Jeffrey H. Butland  
President of the Senate  
S.C. 523

Which was READ and ORDERED PLACED ON FILE.

COMMITTEE REPORTS  
House

Ought to Pass

The Committee on EDUCATION AND CULTURAL AFFAIRS on Bill "An Act to Amend the Definition of "State Agency Client""

H.P. 1281 L.D. 1760

Reported that the same Ought to Pass.

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

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

The Bill TOMORROW ASSIGNED FOR SECOND READING.

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Establish the Town Boundary between the Town of Canaan and the Town of Cornville and between the Town of Canaan and the Town of Skowhegan Located in the County of Somerset"

H.P. 1230 L.D. 1683

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

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

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

The Bill **READ ONCE**.

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

**Ought to Pass As Amended**

The Committee on **HUMAN RESOURCES** on Bill "An Act to Ensure the Proper and Humane Care of Persons Requiring Mental Health Services" (Emergency)

H.P. 1284 L.D. 1764

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-769)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-769)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-769) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **NATURAL RESOURCES** on Bill "An Act Regarding the Cleanup of Uncontrolled Tire Stockpiles"

H.P. 1208 L.D. 1658

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-768)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-768)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-768) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **UTILITIES AND ENERGY** on Bill "An Act to Increase the Borrowing Capacity of the Ashland Water and Sewer District" (Emergency)

H.P. 1190 L.D. 1631

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-761)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-761)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-761) **READ** and **ADOPTED**, in concurrence.

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

**Senate  
Divided Report**

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Establish the Penobscot County Budget Committee"

S.P. 613 L.D. 1617

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

Signed:

Senator:

LONGLEY of Waldo

Representatives:

DAGGETT of Augusta

AHEARNE of Madawaska

SAXL of Bangor

GERRY of Auburn

LOOK of Jonesboro

LEMKE of Westbrook

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-476)**.

Signed:

Senators:

AMERO of Cumberland

CARPENTER of York

Representatives:

ROSEBUSH of East Millinocket

ROBICHAUD of Caribou

LANE of Enfield

SAVAGE of Union

Which Reports were **READ**.

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

Senator LONGLEY of Waldo requested a Division.

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

Senator RUHLIN: I would like to ask the good Senator from Cumberland if, in fact, the minority ought to pass as amended committee report does require that the County Commissioners meet with the legislative delegation to present the budget?

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

Senator AMERO: Yes, the minority report does require that the County Commissioners have to meet with the legislative delegation.

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

A Division has been requested.

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

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

17 Senators having voted in the affirmative and 5 Senators having voted in the negative, the motion by Senator AMERO of Cumberland to **ACCEPT** the Minority **OUCHT TO PASS AS AMENDED** Report, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-476) **READ** and **ADOPTED**.

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



**Divided Report**

Eight Members of the Committee on **UTILITIES AND ENERGY** on Bill "An Act Relating to Pole Attachment Rate Disputes"

S.P. 612 L.D. 1616

Reported in Report "A" that the same **Ought Not to Pass.**

Signed:

Senators:

HARRIMAN of Cumberland  
CLEVELAND of Androscoggin

Representatives:

ADAMS of Portland  
TAYLOR of Cumberland  
GIERINGER, JR. of Portland  
MARSHALL of Eliot  
STONE of Bangor  
HEESCHEN of Wilton

Four Members of the same Committee on the same subject reported in Report "B" that the same **Ought to Pass as Amended by Committee Amendment "A" (S-474).**

Signed:

Representatives:

KONTOS of Windham  
LUTHER of Mexico  
O'NEAL of Limestone  
CAMERON of Rumford

One Member of the same Committee on the same subject reported in Report "C" that the same **Ought to Pass as Amended by Committee Amendment "B" (S-475).**

Signed:

Senator:

CARPENTER of York

Which Reports were **READ.**

On motion by Senator KIEFFER of Aroostook, Tabled 1 Legislative Day, pending **ACCEPTANCE** of Any Report.

**SECOND READER**

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

**House As Amended**

Bill "An Act to Include Sexual Contact in the Definition of Prostitution"

H.P. 1216 L.D. 1666  
(C "A" H-712)

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

**Senate at Ease**

Senate called to order by the President.

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

**COMMUNICATION**

The Following Communication:

**117TH MAINE LEGISLATURE**

March 14, 1996

Senator Stephen E. Hall  
Representative Ernest C. Greenlaw  
Chairpersons  
Joint Standing Committee on  
Inland Fisheries and Wildlife  
117th Legislature  
Augusta, Maine 04333

Dear Senator Hall and Representative Greenlaw:  
Please be advised that Governor Angus S. King, Jr. has nominated Urban "Sonny" D. Pierce, Jr. of

West Buxton, Gail E. Gould of Calais, David E. Dickinson of Ashland, John B. Dimond of Orono, John S. Banks of Milford and William H. Nichols, Jr. of Cumberland Foreside for appointment as members of the new Atlantic Salmon Authority.

Pursuant to Public Law 1996, Chapter 535, these nominations will require review by the Joint Standing Committee on Inland Fisheries and Wildlife and confirmation by the Senate.

Sincerely,  
S/Jeffrey H. Butland  
President of the Senate  
S/Dan A. Gwadosky  
Speaker of the House  
S.P. 754

Which was **READ** and referred to the Committee on **INLAND FISHERIES AND WILDLIFE.**

Sent down for concurrence.

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

**COMMUNICATION**

The Following Communication:

**117TH MAINE LEGISLATURE**

March 14, 1996

Senator Jane A. Amero  
Representative Beverly Daggett  
Chairpersons  
Joint Standing Committee on State and Local Government  
117th Legislature  
Augusta, Maine 04333

Dear Senator Amero and Representative Daggett:

Please be advised that Governor Angus S. King, Jr. has nominated David M. Gauvin of Brewer for appointment as a member of the Workers' Compensation Board.

Pursuant to Title 39-A MRSA, Section 151, this nomination will require review by the Joint Standing Committee on State and Local Government and confirmation by the Senate.

Sincerely,  
S/Jeffrey H. Butland  
President of the Senate  
S/Dan A. Gwadosky  
Speaker of the House  
S.P. 755

Which was **READ** and referred to the Committee on **STATE AND LOCAL GOVERNMENT.**

Sent down for concurrence.

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

An Act Creating a Process for Municipalities to Withdraw from the Cobscook Watershed District

H.P. 1176 L.D. 1608  
C "A" (H-734)

Tabled - earlier in Today's session by Senator **BUSTIN** of Kennebec.

Pending - **ENACTMENT.**

(In House, March 13, 1996, **PASSED TO BE ENACTED.**)

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

Senator **BUSTIN** of Kennebec 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.

Senate at Ease  
Senate called to order by the President.

On motion by Senator MILLS of Somerset, RECESSED until the sound of the bell.

After Recess  
Senate called to order by the President.

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

**PAPER FROM THE HOUSE**  
**Non-concurrent Matter**

Bill "An Act to Clarify the Early Retirement Incentives Law" (Emergency)

S.P. 745 L.D. 1856

In Senate, March 14, 1996, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Comes from the House with the Minority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill "An Act to Limit the Liability of Employers for the Costs of Early Retirement Incentives" (Emergency) (S.P. 744) (L.D. 1855) **PASSED TO BE ENGROSSED**, in **NON-CONCURRENCE**.

Senator KIEFFER of Aroostook moved that the Senate **ADHERE**.

Senator RAND of Cumberland moved that the Senate **RECEDE** and **CONCUR**.

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

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

A vote of Yes will be in favor of **RECEDING** and **CONCURRING**.

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: BERUBE, BUSTIN, CIANCHETTE, ESTY, FAIRCLOTH, FERGUSON, GOLDTHWAIT, LAWRENCE, LONGLEY, MICHAUD, PINGREE, RAND, RUHLIN

**NAYS:** Senators: ABROMSON, AMERO, BEGLEY, BENOIT, HALL, HANLEY, HARRIMAN, KIEFFER, LORD, MILLS, PENDEXTER, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND

**ABSENT:** Senators: CAREY, CARPENTER, CASSIDY, CLEVELAND, HATHAWAY, McCORMICK, O'DEA, PARADIS

13 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 8 Senators being absent, the motion of Senator RAND of Cumberland to **RECEDE** and **CONCUR**, **FAILED**.

On motion by Senator KIEFFER of Aroostook, the Senate **ADHERED**.

Sent down for concurrence.

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

**ORDERS OF THE DAY**  
**Unfinished Business**

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

The Chair laid before the Senate the first Tabled and Specially Assigned (Wednesday, March 13, 1996) matter:

SENATE REPORTS from the Committee on **NATURAL RESOURCES** on Bill "An Act to Grandfather Municipal Ordinances Regulating the Spreading of Sludge" S.P. 705 L.D. 1804

Majority - **Ought Not to Pass** (8 members)

Minority - **Ought to Pass** (4 members)

Tabled - March 12, 1996 by Senator KIEFFER of Aroostook.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, March 5, 1996, Reports **READ**.)

Senator RUHLIN of Penobscot moved that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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

Senator LORD: Thank you, Mr. President. Truly folks, this is a home rule bill. No question about it. This bill is a simple bill that provides that the limits on municipal authority to enact ordinances regarding solid waste facilities do not apply to municipal ordinances enacted prior to September 30, 1989 that relate to the spreading of waste water treatment plant sludge on land. There is, in the State, about twelve communities that have passed an ordinance. Six of the twelve limits that no sludge can be spread in that town, and the rest of them have ordinances a little bit stiffer than what the State rules are. I believe that these people in these towns that enacted these ordinances should have their ordinance kept in force. I'm going to let that go so I can let my colleague and friend from the other side of the fence give his little spiel and maybe we will talk a little longer. Thank you.

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

Senator RUHLIN: Thank you, Ladies and Gentlemen of the Senate. It is always a great pleasure to hear the wisdom of the Senate Chair of the Natural Resources Committee. However, I think in this case, home rule really means abdication of responsibility. I would like to explain that. Some years ago, we, as a State, undertook as our responsibility cleaning up our rivers and our waterways. We took that very seriously. We spent hundreds and hundreds and hundreds of millions of dollars to do that, and to treat our sanitary waste. When we treat that sanitary waste, through the secondary process, there is still a residue that is left, called sludge. In my hometown of Brewer, when I was the Mayor, we spent \$280,000 to take that sludge and dry it out so we could responsibly kill the bacteria that might still be there, and responsibly spread it on the ground for nutrients. That was, I think, being responsible, looking at our responsibility to our environment. We did it willingly, as all the communities of this State have been doing. Now, there are those twelve

communities that the good Chair mentioned who have said, "Well that's fine. The rest of you go ahead and do all of that, but we don't want it in our backyard." That's called NIMBY, Not In My Back Yard, thank you very much. Spread your sludge somewhere else, but not in my back yard. This year we will do it for those twelve, and then next year we can do it for an additional twelve. Then we will have pressures the next year to let another twelve in. Pretty soon, we can have just a few people who actually have the plants to do it. But, let us stop to think, what happens when you do that? I have a list here that you might be interested in. These are the communities who truck their septic waste to the City of Portland. The same thing happens in Brewer, by the way, we take it from the outlying communities. Baldwin, Bridgton, Cape Elizabeth, Casco, Cumberland, Denmark, Freeport, Frye Island, Great Diamond, Gorham, Gray, Naples, Peaks Island, Portland, Raymond, Sebago, South Portland, Standish, Steep Falls, Westbrook, Windham and North Yarmouth. Why don't we say to those people, "If you don't generate it, you don't have to accept the sludge." That would be fair. If you don't generate it, don't accept the sludge. But, as long as you are going to generate waste in this State, we are all in this thing together. Let's paddle all of our oars in the same direction. Thank you.

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

Senator **LORD:** Thank you, Mr. President. My good friend forgot one. Sebago Lake, also. The whole principle is this, remember now, in 1989 my committee, and I worked on this, too, passed an ordinance that said any future ordinances could be no stricter than the rules and regulations that we pass. Anybody can come in here next year and say they want to put this date ahead a year or two, or three, or four. It's up to the Legislature to say no, because you didn't have an ordinance. You didn't have an ordinance when this was passed. They are not going to allow that to happen. You know it and I know it. You take the City of Portland, there are 42 septic tank haulers that haul stuff into the City of Portland. Why should the City of Portland want to go down in York County, way down in North Berwick or Lebanon, when they've got all these towns that they are taking sludge from in the first place? A lot of these towns are rural. They've got farmland and it isn't going to hurt the farmers. The farmers can spread it down there as well as they can spread it down in Lebanon, or they can spread it up to Henry Black's farm, he's got a lot of land up in Baldwin. But the story is this, these twelve communities saw that something was going to happen and they protected themselves. That is home rule folks. That's what we should look at. I almost had to hold my nose when I voted a little while ago against home rule, but the reason I voted against home rule there was the fact that they were mobile and they could go from one town to another. If that was stationary, I would have voted with the minority; but I didn't, I voted with the majority on that one.

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

Senator **RUHLIN:** Thank you, Mr. President. I just want to ask the learned gentleman from York County if, in fact, do they generate waste in Lebanon?

**THE PRESIDENT:** The Senator from Penobscot, Senator Ruhlin, has posed a question through the

Chair to any Senator who may care to respond. The Chair recognizes the Senator from York, Senator Lord.

Senator **LORD:** Most of it goes right over into Sanford. Sanford has a sewer district. They can't spread their sludge on the land because there is alum in it. So their sludge is going in the landfill. Another thing, Lebanon doesn't restrict it. They are just a little bit tighter than the rules and regulations that we enacted. That's the reason why they're holding it. As a matter of fact, Lebanon right now is off the hook because Wheelabrator has decided that it has gotten too much bad publicity; and they are not going to spread it down there. North Berwick is a town that still has that no sludge can be spread and they don't even have a place. Every town is supposed to have a place where they can go and spread septic system waste. It has to be approved by the DEP, and they are in the process of getting that done. So, we all make it.

On motion by Senator **RUHLIN** of Penobscot, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **RUHLIN** of Penobscot that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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, BERUBE, BUSTIN, CIANCHETTE, ESTY, FAIRCLOTH, HARRIMAN, LAWRENCE, MICHAUD, MILLS, PINGREE, RAND, RUHLIN**

**NAYS:** Senators: **BEGLEY, BENOIT, FERGUSON, GOLDTHWAIT, HALL, HANLEY, KIEFFER, LONGLEY, LORD, PENDEXTER, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND**

**ABSENT:** Senators: **CAREY, CARPENTER, CASSIDY, CLEVELAND, HATHAWAY, McCORMICK, O'DEA, PARADIS**

14 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 8 Senators being absent, the motion by Senator **RUHLIN** of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

The Chair laid before the Senate the second Tabled and Specially Assigned (Wednesday, March 13, 1996) matter:

Bill "An Act to Amend the Laws Regarding Employee Leasing Companies" (EMERGENCY)

S.P. 689 L.D. 1761  
(C "A" S-464)

Tabled - March 12, 1996, by Senator **KIEFFER** of Aroostook.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**.

(In Senate, March 12, 1996, **READ A SECOND TIME**.)

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

Senate at Ease  
Senate called to order by the President.

Off Record Remarks

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

**ENACTOR**

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

**Emergency**

An Act to Clarify the Early Retirement Incentives Law

S.P. 745 L.D. 1856

This being an Emergency Measure and having received the affirmative vote of 24 Members of the Senate, with 2 Senators having voted in the negative, and 24 being two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

**PAPERS FROM THE HOUSE**

**Non-concurrent Matter**

Bill "An Act to Amend the Laws Pertaining to the Regulation of Denturists"

S.P. 342 L.D. 947

(C "A" S-460)

In Senate, March 12, 1996, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-460)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-460) AS AMENDED BY HOUSE AMENDMENT "A" (H-774)** thereto, in **NON-CONCURRENCE**.

The Senate **RECEDED** and **CONCURRED**.

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**Non-concurrent Matter**

Bill "An Act Relating to the Potential Improvement of the Maine Turnpike Authority"

S.P. 648 L.D. 1690

(C "A" S-443)

In Senate, March 12, 1996, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-443)**.

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

The Senate **RECEDED** and **CONCURRED**.

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The **ADJOURNMENT ORDER** having been returned from the House **READ** and **PASSED**, in concurrence, on motion by Senator **LAWRENCE** of York, **ADJOURNED** until Tuesday, March 19, 1996, at 9:00 o'clock in the morning.