

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fifteenth Legislature

OF THE

State Of Maine

VOLUME III

FIRST REGULAR SESSION

Senate

December 5, 1990 to May 20, 1991

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

In Senate Chamber
Monday
April 22, 1991

Senate called to Order by the President.

Prayer by Reverend Bruce Hudson of the Highland Avenue Methodist Church in Gardiner.

REVEREND BRUCE HUDSON: Let us be in a spirit of prayer. Creator, God, we are grateful for this day, and especially for this season of the year. We wake up in the morning to hear the birds singing their song, we experience the brightness and warmth of the sun, some days. We see the beauty of flowers blooming all around us and smell their different aromas. We plant seeds, and soon we will see the green plants push their way up through the earth. We have watched new growth appear on the evergreens. All around us, new life appears. We are mindful once again of the Creator that created us, and Who sustains us, and to Whom we owe all we have and what we are, and hope to be. To You we present ourselves today, recognizing that without Your presence in our lives, we are less than what we could be. We are especially concerned as we come this night for those persons and our state, who are without jobs. We pray that somehow in this nation we can find a way to solve the problems that exist in our economy. Give to these persons the wisdom they need to do the tasks that they are called to do. Amen.

Reading of the Journal of Thursday, April 18, 1991.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Compensate Landowners for Land Value Lost because of Wildlife Restrictions"
H.P. 1039 L.D. 1512

In House, April 16, 1991, referred to the Committee on ENERGY AND NATURAL RESOURCES and ORDERED PRINTED.

In Senate, April 17, 1991, referred to the Committee on TAXATION and ORDERED PRINTED in NON-CONCURRENCE.

Comes from the House, that Body ADHERED.

On motion by Senator CLARK of Cumberland, the Senate RECEDED and CONCURRED.

(See Action Later Today)

House Papers

Bill "An Act to Conform Chiropractic Licensing Laws to Other State Regulatory Board Laws" (Emergency)
H.P. 1089 L.D. 1589

Comes from the House referred to the Committee on BUSINESS LEGISLATION and ORDERED PRINTED.

Which was referred to the Committee on BUSINESS LEGISLATION and ORDERED PRINTED, in concurrence.

Bill "An Act to Amend the Laws Governing the Moose Lottery"
H.P. 1088 L.D. 1588

Comes from the House referred to the Committee on FISHERIES AND WILDLIFE and ORDERED PRINTED.

Which was referred to the Committee on FISHERIES AND WILDLIFE and ORDERED PRINTED, in concurrence.

Bill "An Act to Establish the Maine Volunteer Service Act"
H.P. 1090 L.D. 1590

Bill "An Act to Amend the Maine Health Security Act"
H.P. 1093 L.D. 1593

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

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

Bill "An Act to Improve the Maine Workers' Compensation System"
H.P. 1094 L.D. 1594

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

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

Bill "An Act to Require Bottle Clubs and Licensees for the Sale of Liquor to Post a Notice Informing the Public of the Presence of a Person Employed to Preserve the Peace"
H.P. 1085 L.D. 1585

Comes from the House referred to the Committee on **LEGAL AFFAIRS** and **ORDERED PRINTED**.

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

Bill "An Act to Fund the Elderly Tax Deferral Program"
H.P. 1086 L.D. 1586

Bill "An Act to Require the Reporting of Income Tax Payments by Corporations"
H.P. 1091 L.D. 1591

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

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

Bill "An Act to Require Minimum Training Standards for Construction Flaggers"
H.P. 1087 L.D. 1587

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

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

Bill "An Act to Increase the Annual Public Utilities Commission Regulatory Fund Assessment and Make Certain Other Changes" (Emergency)
H.P. 1092 L.D. 1592

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

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

Joint Resolution

The Following Joint Resolution: H.P. 1095

JOINT RESOLUTION CONGRATULATING THE ATLANTIC STATES MARINE FISHERIES COMMISSION ON ITS 50TH ANNIVERSARY OF PROMOTING, CONSERVING AND MANAGING THE MARINE FISHERY RESOURCES OF THE ATLANTIC COASTAL STATES

WHEREAS, the Atlantic States Marine Fisheries Commission will hold its 50th Annual Meeting in Baltimore, Maryland, October 7 to October 11, 1991; and

WHEREAS, the Atlantic States Marine Fisheries Commission has throughout its 50 years of existence faithfully executed its mission of promoting, conserving and managing the marine fishery resources of the Atlantic coastal states; and

WHEREAS, the Atlantic States Marine Fisheries Commission has throughout its existence promoted and encouraged the protection of coastal habitats so vital to the welfare of our valuable marine fishery resources; and

WHEREAS, the Atlantic States Marine Fisheries Commission has promoted and provided effective leadership in the development of interjurisdictional fishery resource management among its 15 member states; and

WHEREAS, the Atlantic States Marine Fisheries Commission has provided an effective voice for its 15 member states, including Maine, in testimony before the United States Congress and the Executive Branch of Government; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Fifteenth Legislature, now assembled in the First Regular Session recognize the Atlantic States Marine Fisheries Commission on the occasion of its 50th anniversary and commend the commission for a tradition of outstanding achievement; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Atlantic States Marine Fisheries Commission for presentation at its 50th annual meeting.

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

Which was **READ** and **ADOPTED**, in concurrence.

COMMUNICATIONS

The Following Communication: S.P. 610

**MAINE WASTE MANAGEMENT AGENCY
STATE HOUSE STATION 154
AUGUSTA, MAINE 04333**

April 1, 1991

Senate President Charles Pray
Speaker of the House John Martin
State House
Augusta, ME 04333

Dear President Pray and Speaker Martin:

On behalf of the 12 members of the Waste Management Advisory Council, I am submitting this annual report, as required by PL 585.

In October 1989, only 16 months ago, a very comprehensive Waste Management law went into effect, establishing a new Waste Management Agency with very specific objectives, and very optimistic goals for waste reductions and recycling in Maine. It has been through the diligent efforts of a dedicated staff, that I am happy to report significant progress in meeting those goals and objectives.

The legislation is particularly significant because it requires addressing many aspects of waste management simultaneously:

a) It recognizes the importance of seed money and technical support, to get as many local programs as possible going early, in order to minimize the "chicken and egg" phenomenon, i.e. there are no markets because there is no product; there is no product because there are no markets.

b) It recognizes education as one of the most important elements in gaining community and business support of recycling, and securing a marketable recyclable product.

c) It recognizes not only the State's regulatory role, but the State as waste generator, and ultimately as stimulus in creating markets through its procurement practices.

d) The legislation addresses problematic disposables through outright bans, deposits, and disposal fees.

e) And most significantly it attempts to minimize the NIMBY syndrome by making the State a major player in the disposal of difficult materials by its siting authority.

It is addressing all these elements at one time, that has been critical in gaining the momentum, necessary to providing a product while simultaneously building markets. In the process, the Agency has been able to assist many Maine municipalities, faced with escalating disposal costs and dump closures, to come to grips with their waste management problems.

Encouragingly, in the process of administering the legislation, the Agency has served as catalyst, coordinator and participant in other statewide and regional waste management and waste reduction activity.

Our Advisory Council, diverse in its representation, has met monthly, with the directors of the Agency, functioning primarily as a sounding board in their planning efforts.

Because of the tremendous amount of early planning necessary in a short amount of time, the council originally organized into subgroups under each of the major efforts, attended public hearings, and reviewed draft proposals between meetings. However, with much of the initial planning now being implemented, we have reorganized our meetings, focusing on specific issues and longer range questions.

The most urgent issue at this time, is the adequate funding of the agency and its programs. To lose the momentum now, after so much as been initiated, would surely disrupt the slowly emerging infrastructure which is absolutely vital to the success of recycling in Maine. To not have the seed money to further initiate programs in other parts of the State would diminish the effect that volume has in stimulating markets, and leave towns with a lingering waste problem.

Municipalities, businesses and industry have appreciated and relied heavily on the Agency as a centralized source of technical support as they struggle to comply with the law. It isn't until their successes get well established, that that source of technical support will be more broadly available.

And finally, it is critical that Maine stay abreast of new technologies and practices in waste management, so, as the legislation has wisely provided, our State plan can be updated to reflect the safest, most cost effective method of dealing with our waste.

Therefore, we see maintaining an adequate funding level for the Waste Management Agency as vital to protecting the investment that Maine has already made in developing a comprehensive waste management program.

Respectfully Submitted,

S/Karen Stram, Chairman
Waste Management
Advisory Council

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

Sent down for concurrence.

SENATE PAPERS

Bill "An Act to Require Country of Origin Labeling on Fresh Produce and Labeling of Produce Treated with Post-harvest Treatments"
S.P. 606 L.D. 1610

Presented by Senator **CLARK** of Cumberland
Cosponsored by Representative **NUTTING** of Leeds,
Representative **PINES** of Limestone and Senator
CAHILL of Sagadahoc

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

Sent down for concurrence.

Bill "An Act to Revise the Laws Governing Banking Institutions"

S.P. 608 L.D. 1612

Presented by Senator **THERIAULT** of Aroostook
Cosponsored by Representative **GARLAND** of Bangor
Submitted by the Department of Professional and
Financial Regulation pursuant to Joint Rule 24.

Bill "An Act to Reform Maine Motor Vehicle Insurance"

S.P. 609 L.D. 1613

Presented by Senator **THERIAULT** of Aroostook
Cosponsored by Senator **BRAWN** of Knox,
Representative **JOSEPH** of Waterville and
Representative **RICHARDS** of Hampden

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

Sent down for concurrence.

Bill "An Act to Amend the Laws Governing Warning Notices Posted by Sellers of Firearms at Trade Shows"
S.P. 601 L.D. 1605

Presented by Senator **CAHILL** of Sagadahoc
Cosponsored by President **PRAY** of Penobscot,
Representative **JACQUES** of Waterville and
Representative **MARSH** of West Gardiner
Approved for introduction by a majority of the
Legislative Council pursuant to Joint Rule 27.

Which was referred to the Committee on **BUSINESS LEGISLATION** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Require Evaluation of Emissions and Health Risks from Incineration Facilities"
S.P. 603 L.D. 1607

Presented by Senator **DUTREMBLE** of York
Approved for introduction by a majority of the
Legislative Council pursuant to Joint Rule 27.

Bill "An Act Concerning Camping Reservations in Baxter State Park"

S.P. 604 L.D. 1608

Presented by Senator **MATTHEWS** of Kennebec

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

Sent down for concurrence.

Bill "An Act to More Effectively Recover Overpayments of Public Assistance"
S.P. 607 L.D. 1611

Presented by Senator **WEBSTER** of Franklin
Cosponsored by Representative **HEPBURN** of Skowhegan
Submitted by the Department of Human Services
pursuant to Joint Rule 24.

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

Sent down for concurrence.

Bill "An Act Regarding Refurbishing Apartments After Damage by Fire"

S.P. 602 L.D. 1606

Presented by Senator **BRAWN** of Knox

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

Sent down for concurrence.

Bill "An Act to Provide New Flags for the State, Governor, National Guard and Merchant and Marine"
S.P. 605 L.D. 1609

Presented by Senator **HOLLOWAY** of Lincoln
Cosponsored by Representative **SAVAGE** of Union

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

Sent down for concurrence.

COMMITTEE REPORTS

House

Ought Not to Pass

The following **Ought Not to Pass** Reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

From the Committee on **FISHERIES AND WILDLIFE** Bill "An Act to Set Standards Relating to Importation Permits for Wildlife"

H.P. 456 L.D. 647

From the Committee on **FISHERIES AND WILDLIFE** Bill "An Act to Establish a Nonresident Property Owner Fishing License"

H.P. 833 L.D. 1199

From the Committee on **TAXATION** Bill "An Act to Establish a Severance Tax on Timber"

H.P. 759 L.D. 1093

From the Committee on **TAXATION** Bill "An Act to Defer Municipal Duties Related to the Homestead Exemption" (Emergency)

H.P. 830 L.D. 1196

From the Committee on **TAXATION** Bill "An Act to Amend the Criteria for Assessment of Property Tax"

H.P. 891 L.D. 1288

From the Committee on **UTILITIES** Bill "An Act to Assist Municipal Solid Waste Energy Recovery Facilities"

H.P. 763 L.D. 1097

Ought to Pass

The Committee on **AUDIT AND PROGRAM REVIEW** on Bill "An Act to Increase Revenues to the General Fund by Streamlining Collection Methods for Use Taxes on Snowmobiles and All-terrain Vehicles Pursuant to the Maine Sunset Act" (Emergency)

H.P. 283 L.D. 404

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 **AUDIT AND PROGRAM REVIEW** on Bill "An Act to Address Staffing Inequities Resulting from the Implementation of the Maine Financial and Administrative Statewide Information System Pursuant to the Maine Sunset Act" (Emergency)

H.P. 772 L.D. 1104

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 **ENERGY AND NATURAL RESOURCES** on Bill "An Act to Amend and Add to Certain Provisions of Geographic-based Information Services"

H.P. 743 L.D. 1047

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 **BANKING AND INSURANCE** on Bill "An Act Restricting the Use of the Names of Maine Banks on Credit Cards"

H.P. 408 L.D. 591

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

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

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

The Bill **READ ONCE**.

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

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

The Committee on **BANKING AND INSURANCE** on Bill "An Act to Prohibit Family Exclusion Clauses in Automobile Insurance Policies"
H.P. 465 L.D. 659

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

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

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-136) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **BANKING AND INSURANCE** on Bill "An Act to Require Casualty Insurers to Provide an Annual Valuation of Loss Reserves"
H.P. 786 L.D. 1118

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

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

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

The Bill **READ ONCE**.

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

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

The Committee on **BUSINESS LEGISLATION** on Bill "An Act Concerning Nighttime Business Operation"
H.P. 142 L.D. 212

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

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

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

The Bill **READ ONCE**.

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

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

The Committee on **BUSINESS LEGISLATION** on Bill "An Act to Prescribe the Duties and Liabilities of Roller-skating Rink Operators and Persons Who Use Roller-skating Rinks"
H.P. 182 L.D. 267

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

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

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

The Bill **READ ONCE**.

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

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

The Joint Select Committee on **CORRECTIONS** on Bill "An Act to Correct Language in the Laws Governing Intensive Supervision"
H.P. 545 L.D. 782

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-139)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-139)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-139) **READ** and **ADOPTED**, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Amend the Law Relating to Road Dust" H.P. 564 L.D. 807

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-141).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-141).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-141) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Alter the Mandate of the Maine Low-level Radioactive Waste Authority to Include Reduction of Low-level Radioactive Waste" H.P. 722 L.D. 1026

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-128).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-128).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-128) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on JUDICIARY on Bill "An Act Regarding the Operation of the Superior Court" H.P. 158 L.D. 243

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

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

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

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

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on JUDICIARY on Bill "An Act Regarding Court Deposits and Revenue Reporting" H.P. 169 L.D. 254

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

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-144).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

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

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on JUDICIARY on Bill "An Act Concerning Destruction of Certain Court Records in Real Estate Matters" H.P. 355 L.D. 485

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

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

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

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

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on **JUDICIARY** on Bill "An Act to Amend the Power of Sale Foreclosure Laws"
H.P. 555 L.D. 798

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-142)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-142)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-142) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act to Amend Maine's Antitrust Laws"
H.P. 566 L.D. 809

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-126)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-126)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-126) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Clarify the Powers and Duties of the Department of Administration, through the Bureau of Purchases"
H.P. 221 L.D. 312

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-129)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-129)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-129) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **UTILITIES** on Bill "An Act to Clarify the Lien Rights of Water Utilities"
H.P. 464 L.D. 658

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-140)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-140)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-140) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **EDUCATION** on Bill "An Act to Permit Students to Take Tests for Credit for Certain Classes"
H.P. 556 L.D. 799

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-115)**

Signed:

Senators:
ESTES of York
MCCORMICK of Kennebec
BRAWN of Knox

Representatives:
PFEIFFER of Brunswick
CAHILL of Mattawamkeag
HANDY of Lewiston
AULT of Wayne
NORTON of Winthrop
BARTH of Bethel
CROWLEY of Stockton Springs
O'DEA of Orono
OLIVER of Portland

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

Signed:

Representative:

O'GARA of Westbrook

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-115).**

Which Reports were **READ.**

On motion by Senator **ESTES** of York, the Majority **OUGHT TO PASS AS AMENDED** Report was **ACCEPTED**, in concurrence.

The Bill **READ ONCE.**

Committee Amendment "A" (H-115) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Require State Audit and Review of Quasi-municipal Corporations Granted by State Charter"

H.P. 293 L.D. 414

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

Signed:

Senators:

BUSTIN of Kennebec
EMERSON of Penobscot

Representatives:

NASH of Camden
WATERMAN of Buxton
GRAY of Sedgwick
SAVAGE of Union
LOOK of Jonesboro
KERR of Old Orchard Beach

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-131).**

Signed:

Senator:

BERUBE of Androscoggin

Representatives:

HEESCHEN of Wilton
ST. ONGE of Greene
JOSEPH of Waterville
LARRIVEE of Gorham

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

Which Reports were **READ.**

On motion by Senator **BERUBE** of Androscoggin, the Minority **OUGHT TO PASS AS AMENDED** Report was **ACCEPTED** in **NON-CONCURRENCE.**

Senator **BOST** of Penobscot moved that the Senate **RECONSIDER** its action whereby it **ACCEPTED** the Minority **OUGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE.**

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

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

Senator **BOST:** Thank you Mr. President. Ladies and Gentlemen of the Senate. If I may, I would like to pose a question through the Chair to the good Senator from Androscoggin, Senator Berube. Could she please explain to this Body what this Bill does, and perhaps, the rationale for her position on this?

THE PRESIDENT: The Senator from Penobscot, Senator Bost, has posed a question through the Chair to any Senator who would like to answer. The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator **BERUBE:** Thank you Mr. President. This Bill is an attempt to have Quasi-municipal, non-profit, so-called agencies be audited and reviewed, have their budgets, and their expenditures, and their revenues reviewed and audited by the State Auditor. Those agencies which are federally audited would be exempt, i.e. Housing Authorities, for instance. But, others upon the request of twenty-five citizens signatures, and by citizens I mean, rate payers. It couldn't be someone who blows into town and wants to start a petition, they would have to be legitimate residents and rate payers. Upon that request the State Auditor would perform such an audit.

It is not a complicated Bill. It is a Bill that would provide some accountability to the people of that municipality, those who are paying the rates. Increased rates, as you know, are a big concern with many people throughout the state, and if there were a format used which this Bill would provide through the good graces of the State Auditor, who by the way, said that this could be handled very nicely by them, because the costs would be borne by the non-profit Quasi-municipal agency, and that supposedly would enlighten many people as to how the monies are spent. Thank you.

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

Senator **BOST:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I will be very brief, simply stated, the accountability is already there, I believe the good Senator recognizes that. I think it is important that members of this Senate recognize that the impetuous behind this Bill which is of state

wide significance, were we to accept the Minority Report, is really the basis for the introduction of this Bill, and is a concern that one or two Legislators have with the Bangor Water District. I think that needs to be made very clear. Obviously, Legislators from Penobscot County, who like myself, have a number of municipalities that rely upon their water from the Bangor Water District and contractual agreements with that entity. Obviously, we are concerned that this is a foot in the door to begin to rescind, perhaps, some of those agreements. That may not be written in the amendment, but that is certainly written between the lines. I would again reiterate that the accountability is already there, this is a duplicate effort, potentially very costly, and Mr. President, I would ask that I withdraw my request to reconsider at this time.

Senator **BOST** of Penobscot requested and received leave of the Senate to withdraw his motion to **RECONSIDER** whereby the Minority **OUGHT TO PASS AS AMENDED** Report was **ACCEPTED** in **NON-CONCURRENCE**.

The same Senator further moved the **INDEFINITE POSTPONEMENT** of the Bill and Accompanying Papers, in concurrence.

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

Senator **BERUBE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would hope that you would not vote to Indefinitely Postpone. This Bill had a very good Hearing, we had several work sessions. I will say that I have, and I didn't think this was such a major issue until I saw three prominent members, I don't know what you call them, but they are called lobbyists in some quarters, lobbied this Bill, and I could never figure out why.

All we have heard about is water districts, and shutting off water from one community to another. Such is not the case. I don't think they have anything to fear, or to be apprehensive at having a budget audited. Now, the budgets that we see are sort of a profundity type offering of a balance sheet. But, this would go deeper. For instance, how much we are paid in salaries, how much infringes, how much in travels, it would deal with transit authorities, it would deal with Quasi-municipal agencies, solid waste, whatever.

By the way, our Committee did try for two weeks to find out how many of these Quasi-municipal agencies are existing in the state. We still can't get a handle on them, we have contacted two departments, and we can't get a feeling of how many there are. Until yesterday, I read in our local paper that Lewiston sewer rates are going to increase by sixteen percent. Well, they went up by twenty-four or twenty-seven percent last year. And one reason is that the Lewiston-Auburn Water Pollution Control Authority had a deficit of several hundred thousand dollars that was discovered only ten months ago. It goes back to 1989 and 1990, when this Pollution Control Authority spent more money than it had to get rid of sludge. The former director never notified the city officials, and he took off for greener pastures out West, in California, I think the paper said. So Lewiston's share of covering that deficit is \$292,000. It has got to come from somewhere, my friends.

And one thing that caught my mind, is that the Board of this Water Pollution Control recently had voted a substantial salary increase to everyone. Now, if this Bill had been in effect at the time, the people of Lewiston, the city officials, would have known what the salaries were, probably they were out of proportion to what the community was willing to pay, they might have noticed that some travel monies were perhaps a little greater than most people can afford, and they might have been able to control it at the source, but now, my city is faced with \$292,000 as its share. Thank you.

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

Senator **CARPENTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. In the 114th I heard a Bill, maybe it is not exactly the same as this, but very close in State and Local Government. I also served on Utilities at that time. We had it referred to Utilities, so I heard that Bill again last session. I have heard the Bill again this session in the Utilities Committee. It seems that there is very few individuals that seem to think that the Bangor Water District is not operating correctly, but I want to inform you right now, that, the Utilities Committee is in charge of the Public Utilities Commission, and under the PUC rules, they do provide for an audit of these water utilities, which is under auditing requirements for all public utilities. Each public utility shall have an annual audit made of its accounts. I hope that you support the Indefinite Postmentment. Thank you.

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

Senator **EMERSON:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would ask that you support the Indefinite Postponement. I believe the information that is sought is already available if anybody wants to look for it, and if we enacted this, it could bring on another audit which would be an expense to the water district, or whatever. So I hope you support the Indefinite Postponement.

The Chair ordered a Division.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **BOST** of Penobscot to **INDEFINITELY POSTPONE** Bill and Accompanying Papers, in concurrence.

A Division has been ordered.

Will all of those in favor of the motion of Senator **BOST** of Penobscot to **INDEFINITELY POSTPONE** Bill and Accompanying Papers, in concurrence, 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 10 Senators having voted in the negative, the motion by Senator **BOST** of Penobscot to **INDEFINITELY POSTPONE** Bill and Accompanying Papers, in concurrence, **PREVAILED**.

Divided Report

Seven Members on the Committee on **LEGAL AFFAIRS** on Bill "An Act Designed to Make the Use and Storage of Firearms Safer"

H.P. 59 L.D. 87

Report in Report A that the same **Ought to Pass** as Amended by Committee Amendment "A" (H-122).

Signed:

Representatives:

- LAWRENCE of Kittery
- JALBERT of Lisbon
- RICHARDSON of Portland
- STEVENS of Sabattus
- TUPPER of Orrington
- HICHENS of Eliot
- BOWERS of Sherman

Four Members of the Same Committee on the same subject report in Report B that the same **Ought to Pass** as Amended by Committee Amendment "B" (H-123).

Signed:

Senators:

- MILLS of Oxford
- KANY of Kennebec
- SUMMERS of Cumberland

Representative:

- PLOURDE of Biddeford

Two Members of the Same Committee on the same subject report in Report C that the same **Ought Not to Pass**.

Signed:

Representatives:

- DAGGETT of Augusta
- POULIN of Oakland

Comes from the House, Report B, **OUGHT TO PASS AS AMENDED** Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-123).

Which Reports were READ.

On motion by Senator MILLS of Oxford, Report B, **OUGHT TO PASS AS AMENDED** Report was ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "B" (H-123) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Senate

Ought Not to Pass

The following **Ought Not to Pass** Reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Reported by Senator ESTES for the Committee on **EDUCATION** Bill "An Act to Amend the Requirements for Superintendent Certification"

S.P. 419 L.D. 1131

Reported by Senator CONLEY for the Committee on **LABOR** Bill "An Act to Improve the Employer Contribution Collection Process under the Employment Security Law"

S.P. 298 L.D. 796

Reported by Senator THERIAULT for the Committee on **TRANSPORTATION** Bill "An Act to Prohibit Passengers under 10 Years of Age on Motorcycles"

S.P. 384 L.D. 1061

Leave to Withdraw

The following **Leave to Withdraw** Reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Reported by Senator ESTY for the Committee on **LABOR** Bill "An Act to Protect Private Sector Workers against Unjust Discharge"

S.P. 397 L.D. 1073

Reported by Senator ESTY for the Committee on **LABOR** Bill "An Act to Require Notification of Employee Termination"

S.P. 432 L.D. 1153

Reported by Senator THERIAULT for the Committee on **TRANSPORTATION** Bill "An Act to Facilitate the Prosecution of Drivers who Illegally Pass School Buses"

S.P. 138 L.D. 278

SECOND READERS

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

House

Bill "An Act to Amend the Qualification of Blueberry Producers Associations in the Maine Agriculture Marketing and Bargaining Act of 1973"

H.P. 708 L.D. 1013

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

Bill "An Act to Amend the Laws Regarding Enhanced 9-1-1" (Emergency)
H.P. 702 L.D. 1006

Which was **READ A SECOND TIME**.

On motion by Senator **CLARK** of Cumberland, Tabled Unassigned, pending **PASSAGE TO BE ENGROSSED**, in concurrence.

House As Amended

Bill "An Act to Appropriate Funds to Continue the Surname Index Project at the Maine State Library"
H.P. 97 L.D. 138
(C "A" H-113)

Bill "An Act Regarding Traffic Violations Bureaus"
H.P. 178 L.D. 263
(C "A" H-110)

Bill "An Act to Provide Payment of Restitution to the Offices of the District Attorneys"
H.P. 268 L.D. 388
(C "A" H-111)

Bill "An Act to Amend the Maine Human Rights Act to Prohibit Educational Discrimination on the Basis of Race"
H.P. 341 L.D. 471
(C "A" H-109)

Bill "An Act Concerning the Lobster Harvesting License Fee for Persons 70 Years of Age or Older"
H.P. 346 L.D. 476
(C "A" H-125)

Bill "An Act Regarding Local Option Questions on the Sale of Beer and Wine"
H.P. 388 L.D. 562
(C "A" H-121)

Bill "An Act to Enable Retail Stores to Bottle and Sell Water on the Premises"
H.P. 516 L.D. 744
(C "A" H-119)

Bill "An Act to Require Voter Approval for Disposal of School Property"
H.P. 573 L.D. 824
(C "A" H-114)

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

Senate As Amended

Bill "An Act to Clarify the Definition of Resident Trust"
S.P. 316 L.D. 854
(C "A" S-73)

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

Sent down for concurrence.

ENACTORS

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

An Act to Expand the Applicability of Certain Energy Standards
S.P. 149 L.D. 361
(C "A" S-34)

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

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the Tabled and Specially Assigned (4/18/91) matter:

Bill "An Act to Amend the Composition of the Board of Trustees of the Maine Technical College System"
H.P. 395 L.D. 569

Tabled - April 17, 1991, by Senator **CLARK** of Cumberland.

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-100)**, in concurrence

(In Senate, April 17, 1991, Committee Amendment "A" (H-100) READ.)

(In House, April 16, 1991, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-100).)

On motion by Senator **MCCORMICK** of Kennebec, Senate Amendment "A" (S-75) to Committee Amendment "A" (H-100) READ.

THE PRESIDENT: The Chair recognizes that same Senator.

Senator **MCCORMICK:** Thank you Mr. President. This is a technical amendment to avoid a conflict with Public Law 1991, Chapter 20, also enacted in the First Regular Session of the 115th Legislature.

On further motion by same Senator, Senate Amendment "A" (S-75) to Committee Amendment "A" (H-100) ADOPTED.

Committee Amendment "A" (H-100), as Amended by Senate Amendment "A" (S-75) thereto, ADOPTED in NON-CONCURRENCE.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Chair laid upon the Table the Tabled and Specially Assigned (4/18/91) matter:

SENATE REPORTS - from the Committee on EDUCATION on Bill "An Act to Change the Process of Selecting the Commissioner of Education"

S.P. 51 L.D. 81

Majority - Ought to Pass As Amended by Committee Amendment "A" (S-56).

Minority - Ought Not to Pass.

Tabled - April 17, 1991, by Senator **CLARK** of Cumberland.

Pending - ACCEPTANCE OF EITHER REPORT

(In Senate, April 11, 1991, Reports READ.)

On motion by Senator **ESTES** of York, the Majority OUGHT TO PASS AS AMENDED Report was ACCEPTED.

On motion by Senator **BRAWN** of Knox, the Senate RECONSIDERED its action whereby it ACCEPTED the Majority OUGHT TO PASS AS AMENDED Report.

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

Senator **BRAWN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This is my greatest fear happening this minute, I have sat all day out at the Civic Center, as you have all had your turn to do, and listen to worker's compensation reform. So,

I apologize, and hope you will bear with my nervousness, and be patient with me.

L.D. 81 would create a new process of selecting a Commissioner of Education. You know, that sounds good, and I want to share with you what is happening, and there is no doubt why I think I am going to ask you to vote against the motion. What they are asking us to do, is give the State Board of Education the job. The State Board of Education testified against this Bill at the Hearing, and I think it is so important, her remarks were so good, that I would like to read into the Record just a part of what she said. "The State Board of Education in reviewing L.D. 81, focused their discussion on what they felt would be the best system to create the most opportunities for Maine's children. Our analysis lead us to a conclusion that it is more important for children and for education that the Commissioner be a member of the Governor's Cabinet. In states where the State Board of Education appoints a Commissioner, the Governor often has a staff person whom he or she relies on for advice and direction on educational issues. The Commissioner, as a result, does not have direct input to the Governor. A concern that has been expressed that the present system is too political, and that educational issues should be removed as much as possible from a political arena. We believe that the process of both legislative confirmation and the statutory requirement that there be a working relationship between a Lay Board and the Commissioner, protects education from becoming too politicized. In the past decade, under the present system, education has certainly been the priority in this state. We think the present system is working, and therefore, are opposed to changes in L.D. 81."

Also, an editorial appeared back on March 23rd in the Bangor Daily News, and I would again, read just for the Record, just a brief portion of that article. "It is a lofty aspiration to depoliticize to some degree the job of Education Commissioner, its function and the process of which the Commissioner is a part. But the Commissioner will always be in the political hot seat, and when he goes onto the State Capitol, there is no better friend in that kitchen than the Governor. A Cabinet level appointment carries status and projects from a broad, firm, political base. It provides insulation from the MTA, the Maine Teachers Association, and interest groups representing school boards, principals, and superintendents. A Commissioner's life would be less pleasant if that insulation was stripped away. Working for the State Board of Education, a group unaccustomed to the role of employer, lacking a political base, and with an extremely narrow focus, even in education, would provide the Commissioner with autonomy of illusion, but little else. Most of all, that a direct link now exists between the people and the Commissioner, a clear line of accountability that runs from the taxpayers to their elected Governor. The move to an appointment by the State Board implies an unacceptable shift of power and control away from the public. For many of these reasons, the state in 1973 took the power to appoint the Education Commissioner from the State Board and gave it to the Governor. It was a wise move."

Mr. President, at the Hearing, and it was so long ago, there were two people that spoke in favor of this Bill, the Maine School Boards Association, the

Maine School Superintendents Association, and two spoke against, the Governor's office, of course, and also, as I just shared with you, the Chairman of the State Board of Education. Mr. President I would ask for a Roll Call. Thank you.

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

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

Senator **ESTES:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I rise today to give you arguments in support of L.D. 81 as amended by the Majority Report. My comments initially may sound as if they are rambling and a little off the subject, but I think I will be able to bring them back full circle to what is going on here in Maine, and what will hopefully continue to go on over the next five years in terms of significant changes in public education.

Funding for General Purpose Aid and K-12 school districts wrestling with the budget crisis, secondary institutions facing the budget ax and serious compromise of their delivery of services, and then last week, President Bush's challenge to public education, to some of us educationally, we seem like we are at the point where things are getting worse before they can get better. There are some who are having a hard time withstanding the heat in the kitchen, but it is a mistake to leave now. Believe me, Maine is at the fore front of continued education reform. We simply can't back out now. Today, we have a clearer grasp than ever of the challenges of changing our education system, and a better sense of what we need to do. While our education form to date has been piece meal and fragmented, we have many successes, and those programs and initiatives need to be linked, harmonized, and amplified.

Our education policy is yet to create a sufficient coherent support of environment for taking risks and moving ahead. Adjusting old policy and practice here and there, is not going to fix it. What is needed, is a fundamental redesign of our educational system. But, how do we restructure our public education system? That discussion is now taking place in earnest in the Education Committee. Having heard two Bills on restructuring public schools, we are currently working on this issue in Committee for Legislative action this session. Changing the process of selecting the Commissioner, is very much a part of this important restructuring of public schools.

Our first wave of education reform which began in 1984, was based on the assumption that what was needed was higher standards to find by larger doses of the same sort of education. For example, more graduation requirements, assessment testing, a longer school day, a longer school year. But, it has not produced significant, positive results.

A second wave is now proceeding on a more radical assumption, that what is needed is nothing less than a wholly reorganized system. A reorganized system that operates on a different set of expectations and incentives, a prescriptive, talked down policy.

Those mandates are tidy, but ineffective, and are the failed answers of the past. The focal idea underlying restructuring, is that the system itself from top to bottom must be organized in order to achieve the kinds of learning and thinking outcomes now seen as necessary for students. An organization structure must be created in which authority and responsibility are aligned, and in which those who are charged with getting the job done, namely the schools and teachers, have the authority and the support they need to do it well. In the long run, schools and districts must be accountable for achieving certain, yet to be defined outcomes, rather than for adhering to a set of procedural guidelines and regulations.

This new approach will dictate a very different relationship between the Commissioner, the Department of Education, and local schools, because so many decisions are pushed down to the school level. The Commissioner and Department of Education will need to take on a more supportive role towards the schools, and rather than tell them how to do what they must do, or whether they can do something, they will help schools get things done. Across the country, State Departments of Education are examining whether and how they should change their roles from regulation to being helpers. And it is states like Kentucky and Virginia who are on the verge of dramatic reorganization of their state education agencies, they are also redefining the roles of their Commissioners of Education. Kentucky, on January 1st of this year, just recently became the 28th state, whose Commissioner of Education is appointed by the State Board of Education. Kentucky, as a side line, is doing some other very radical things, which I think we should watch very closely. Effective June 30th this year, their Department of Education is going to be abolished, and all of their employees are going to be terminated at the close of that business day, and a new department, a reorganized, a restructured department will begin January 1st.

Maine is only one of seven states whose Commissioner is appointed by the Governor. All of our fellow New England states permit their Governor to appoint a State Board. These State Board members are appointed on staggered basis, and they in turn as a Body, select the Chief State School Officer. L.D. 81 as amended will not effect the current Commissioner, nor the current Governor. It won't become effective until January of 1995. L.D. 81 proposes to have the Commissioner appointed by the State Board, with input from the Governor. The Commissioner would have a three year contract with annual review on his or her performance. This Bill creates a more bipartisan approach in the appointment of the Commissioner, and is very similar to the way the Chancellor of the University of Maine System, and the President of the Technical College System, are chosen. This process has a greater potential for providing consistent and an effective leadership for education, with the accountability the public and our children deserve.

As we seriously begin restructuring redesign of Maine's public schools, we will need to also reorganize the role of the Department of Education, and the State Board of Education. Changing the method of selecting the Commissioner of Education, will not only depoliticize the position, but will

allow for the Commissioner to become a more independent advocate for public education. This change will undoubtedly reemphasize and enhance the role of the State Board, and will place a premium on closer ties and more positive working relationship between the Board and the Commissioner. I strongly urge your support of the Majority Ought To Pass As Amended Report. Thank you.

Senator **BRAWN** of Knox requested and received leave of the Senate to withdraw her motion for a Roll Call.

Senator **CAHILL** of Sagadahoc requested a Division.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **ESTES** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

A Division has been requested.

Will all of those in favor of the motion by Senator **ESTES** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, 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 10 Senators having voted in the negative, the motion by Senator **ESTES** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

The Bill **READ ONCE**.

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

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

The Chair laid before the Senate the Tabled and Specially Assigned matter:

Bill "An Act to Protect Children from Illegal Tobacco Sales"

S.P. 506 L.D. 1344

Tabled - April 18, 1991, by Senator **CLARK** of Cumberland.

Pending - **FURTHER CONSIDERATION**

(Committee on **LEGAL AFFAIRS** suggested and **ORDERED PRINTED**.)

(In Senate, April 1, 1991, referred to the Committee on **BUSINESS LEGISLATION** and **ORDERED PRINTED**.)

(In House, April 17, 1991, referred to the Committee on **LEGAL AFFAIRS** and **ORDERED PRINTED** in **NON-CONCURRENCE**.)

On motion by Senator **MILLS** of Oxford, the Senate **RECEDED** and **CONCURRED**.

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

ORDERS

Joint Order

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

S.P. 629

ORDERED, the House concurring, that Bill "An Act to Extend the Eligibility Period for Reimbursement of Municipalities for Landfill Closure," H.P. 324, L.D. 454, and all its accompanying papers, be recalled from the legislative files to the Senate.

Which was **READ**.

THE PRESIDENT: The pending question before the Senate is **PASSAGE**. Pursuant to Joint Rule 15 this Joint Order requires a two-thirds vote of those present and voting.

Will all those members in favor of **PASSAGE**, please rise and remain standing in their places until counted.

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

26 Senators having voted in the affirmative and no Senators having voted in the negative, The Joint Order was **PASSED**.

Sent down for concurrence.

On motion by Senator **CLARK** of Cumberland, the Senate **RECONSIDERED** its action whereby it **RECEDED** and **CONCURRED** on:

Bill "An Act to Compensate Landowners for Land Value Lost because of Wildlife Restrictions"
H.P. 1039 L.D. 1512

(In House, April 16, 1991, referred to the Committee on **ENERGY AND NATURAL RESOURCES** and **ORDERED PRINTED**.)

(In Senate, April 17, 1991, referred to the Committee on **TAXATION** and **ORDERED PRINTED** in **NON-CONCURRENCE**.)

(In House, April 18, 1991, that Body **ADHERED**.)

On further motion by same Senator, the Senate ADHERED.

COMMITTEE REPORTS

Senate

Ought Not to Pass

The following **Ought Not to Pass** Report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Reported by Senator **BERUBE** for the Committee on **STATE AND LOCAL GOVERNMENT** Resolve, to Create the Commission on Effective Information Systems in State Government

S.P. 544 L.D. 1448

Leave to Withdraw

The following **Leave to Withdraw** Report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Reported by Senator **GILL** for the Committee on **HUMAN RESOURCES** Bill "An Act to Establish a System of Consumer Advocates for Persons with Severe and Prolonged Mental Illness"

S.P. 534 L.D. 1423

Ought to Pass As Amended

Senator **MATTHEWS** for the Committee on **BUSINESS LEGISLATION** on Bill "An Act to Amend the Maine Uniform Transfers to Minors Act to Permit the Holding of Custodial Property Registered under a Street or Nominee Name"

S.P. 112 L.D. 209

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-77)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-77) **READ** and **ADOPTED**.

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

Senator **ESTES** for the Committee on **EDUCATION** on Bill "An Act to Amend the University of Maine System Charter"

S.P. 325 L.D. 881

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-80)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-80) **READ** and **ADOPTED**.

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

Senator **GILL** for the Committee on **HUMAN RESOURCES** on Bill "An Act Relating to Assumption of Medical Expenses by the State in Child Protection Investigations"

S.P. 211 L.D. 538

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

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

The Bill **READ ONCE**.

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

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

Senator **MILLS** for the Committee on **LEGAL AFFAIRS** on Bill "An Act Relating to Alcohol Licenses for Golf Clubs"

S.P. 195 L.D. 504

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

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

The Bill **READ ONCE**.

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

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

Senator **BERUBE** for the Committee on **STATE AND LOCAL GOVERNMENT** on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine to Protect the Assets of State Retirement Plans

S.P. 122 L.D. 224

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

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

The Resolution **READ ONCE**.

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

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

Senator **BOST** for the Committee on **TAXATION** on Bill "An Act to Modify the Maine Residents Property Tax Program"

S.P. 385 L.D. 1062

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

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-76) **READ** and **ADOPTED**.

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

Divided Report

The Majority of the Committee on **LEGAL AFFAIRS** on Bill "An Act to Create a Special Liquor License for Certain Service Provider Organizations"

S.P. 136 L.D. 276

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

Signed:

Senators:

KANY of Kennebec
SUMMERS of Cumberland

Representatives:

JALBERT of Lisbon
DAGGETT of Augusta
POULIN of Oakland
STEVENS of Sabattus
TUPPER of Orrington
HICHENS of Eliot
BOWERS of Sherman

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-78)**

Signed:

Senator:

MILLS of Oxford

Representatives:

LAWRENCE of Kittery
PLOURDE of Biddeford
RICHARDSON of Portland

Which Reports were **READ**.

On motion by Senator **MILLS** of Oxford, the Minority **OUGHT TO PASS AS AMENDED** Report was **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-78) **READ** and **ADOPTED**.

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

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

Off Record Remarks

On motion by Senator **MCCORMICK** of Kennebec, **ADJOURNED** until Wednesday, April 24, 1991, at 5:00 in the afternoon.