

# MAINE STATE LEGISLATURE

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# LEGISLATIVE RECORD

OF THE

**One Hundred And Fifteenth Legislature**

OF THE

**State Of Maine**

**VOLUME IV**

**FIRST REGULAR SESSION**

Senate  
May 22, 1991 to July 10, 1991

Index

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

In Senate Chamber  
Wednesday  
June 5, 1991

Senate called to Order by the President.

Prayer by the Honorable Donald L. Rich of Cumberland.

**SENATOR DONALD L. RICH:** Let us be in the spirit of prayer. Thank You, God, for bringing us together today. We come before You with many concerns. We ask for Your guidance as we make the difficult choices necessary in the next few weeks. Help each one of us to be mindful of Your presence, as we do the best we can to serve the people of the State of Maine. In the name of God we pray. Amen.

Reading of the Journal of Tuesday, June 4, 1991.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Clarify Board Membership Qualifications and Make Necessary Fee Adjustments to Meet Board and Departmental Operating Expenses for the State Board of Licensure for Professional Foresters" (Emergency)

H.P. 919 L.D. 1316  
(C "A" H-312)

In Senate, May 23, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-312)**, in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-312) AS AMENDED BY HOUSE AMENDMENT "A" (H-376)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **CLARK** of Cumberland, Tabled until Later in Today's Session, pending **FURTHER CONSIDERATION**.

Non-concurrent Matter

Resolve, to Establish a Commission to Investigate Census Data Irregularities (Emergency)  
H.P. 1310 L.D. 1892

(Committee on **STATE AND LOCAL GOVERNMENT** suggested and **ORDERED PRINTED**.)

In Senate, May 22, 1991, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-544)** in **NON-CONCURRENCE**.

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

Non-concurrent Matter

Bill "An Act to Establish a Harbor Management Fund and Deal with Abandoned Watercraft"  
H.P. 441 L.D. 624  
(H "A" H-372 to C  
"A" H-330)

In Senate, May 28, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-330) AS AMENDED BY HOUSE AMENDMENT "A" (H-372)** thereto, in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-330) AS AMENDED BY HOUSE AMENDMENTS "A" (H-372) AND "B" (H-505)** thereto, in **NON-CONCURRENCE**.

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

Non-concurrent Matter

Bill "An Act to Allow the Department of Transportation to Facilitate Traffic and Highway Improvements"  
H.P. 688 L.D. 987  
(C "A" H-280)

In Senate, May 20, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-280)**, in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-280) AND HOUSE AMENDMENT "A" (H-506)** in **NON-CONCURRENCE**.

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

**Non-concurrent Matter**

Bill "An Act to Amend Certain Laws Administered by the Maine State Retirement System"  
S.P. 562 L.D. 1466  
(C "A" S-196)

In Senate, May 23, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-196).**

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-196) AND HOUSE AMENDMENT "A" (H-533) in NON-CONCURRENCE.**

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

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**Non-concurrent Matter**

Bill "An Act to Make Revisions in the Marine Resource Laws"  
S.P. 510 L.D. 1359  
(S "A" S-165 to C "A" S-150)

In Senate, May 16, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-150) AS AMENDED BY SENATE AMENDMENT "A" (S-165) thereto.**

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-150) AS AMENDED BY SENATE AMENDMENT "A" (S-165) thereto, AND HOUSE AMENDMENT "A" (H-507) in NON-CONCURRENCE.**

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

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**Non-concurrent Matter**

Bill "An Act to Prescribe the Duties and Liabilities of Ice-skating Rink Operators and Persons Who Use Ice-skating Rinks"  
H.P. 1217 L.D. 1775  
(H "A" H-285)

In Senate, May 22, 1991, **PASSED TO BE ENACTED,** in concurrence.

**RECALLED** from the Governor's Desk pursuant to Joint Order H.P. 1323, in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "A" (H-285) AND "B" (H-526) in NON-CONCURRENCE.**

On motion by Senator **CLARK** of Cumberland, Tabled until Later in Today's Session, pending **FURTHER CONSIDERATION.**

**Non-concurrent Matter**

Bill "An Act to Relocate Maine Emergency Medical Services from the Department of Human Services to the Department of Public Safety Pursuant to the Maine Sunset Act"  
S.P. 709 L.D. 1890

(Committee on **AUDIT AND PROGRAM REVIEW** suggested and **ORDERED PRINTED.**)

In Senate, May 22, 1991, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED,** without reference to a Committee.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-540) in NON-CONCURRENCE.**

On motion by Senator **CLARK** of Cumberland, Tabled until Later in Today's Session, pending **FURTHER CONSIDERATION.**

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**Joint Order**

The following Joint Order: H.P. 1327

**ORDERED,** the Senate concurring, that Bill, "An Act Concerning Salary Provisions for Automotive Industry Personnel," S.P. 491, L.D. 1329, and all its accompanying papers be recalled from the legislative files to the House.

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

Which was **READ.**

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**Senate at Ease**

Senate called to order by the President.

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**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 in favor of **PASSAGE,** please rise and remain standing in your place until counted.

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

25 Senators having voted in the affirmative and No Senators having voted in the negative, the Joint Order was **PASSED**, in concurrence.

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**SENATE PAPERS**

Bill "An Act to Remove the Sunset Provision Concerning the Blueberry Anti-theft Laws" (Emergency)  
S.P. 734 L.D. 1925

Presented by Senator **EMERSON** of Penobscot  
Cosponsored by Representative **SPEAR** of Nobleboro  
and Representative **HUSSEY** of Milo

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

Sent down for concurrence.

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Bill "An Act to Correct Errors and Inconsistencies in the Laws of Maine" (Emergency)  
S.P. 735 L.D. 1926

Presented by Senator **GAUVREAU** of Androscoggin  
Cosponsored by Representative **PARADIS** of Augusta  
Submitted by the Joint Standing Committee on  
Judiciary pursuant to Joint Rule 21.

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

Sent down for concurrence.

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

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**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 **APPROPRIATIONS AND FINANCIAL AFFAIRS** Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$5,000,000 for the Construction of Necessary Safe Drinking Water Facilities"  
H.P. 453 L.D. 643

From the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$10,045,000 for the Maine Technical College System"  
H.P. 481 L.D. 675

From the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$5,000,000 to Finance the Acquisition of Farmland to Preserve the Land for its Natural, Open Space, Ecological and Aesthetic Value"  
H.P. 767 L.D. 1101

From the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$20,000,000 to Provide Funds to Help Municipalities with the Costs of Capital Construction to Correct Combined Sewer Overflows"  
H.P. 841 L.D. 1207

From the Committee on **EDUCATION** Bill "An Act to Encourage the Preservation of Historic Tower Clocks"  
H.P. 1312 L.D. 1898

From the Committee on **TAXATION** Bill "An Act to Compensate Landowners for Land Value Lost because of Wildlife Restrictions"  
H.P. 1039 L.D. 1512

From the Committee on **TAXATION** Bill "An Act to Require the State to Compensate Municipalities for the Loss of Tax Revenue as a Result of the State Taking Real Property"  
H.P. 1206 L.D. 1762

From the Committee on **TAXATION** Bill "An Act to Provide Tire Disposal Alternatives and Fund Waste Management Programs" (Emergency)  
H.P. 1300 L.D. 1880

From the Committee on **TAXATION** Bill "An Act to Develop and Implement a Statewide System to Collect and Dispose of Household Hazardous Products" (Emergency)  
H.P. 1317 L.D. 1904

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**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:

From the Committee on **EDUCATION** Bill "An Act Regarding the Parents as Teachers Program"  
H.P. 1286 L.D. 1856

**Ought to Pass**

The Committee on **STATE AND LOCAL GOVERNMENT** on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Oxford County for the Year 1991 (Emergency)

H.P. 1328 L.D. 1919

Reported that the same **Ought to Pass**, pursuant to Joint Order (H.P. 101).

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

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

Which was, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in concurrence.

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The Committee on **STATE AND LOCAL GOVERNMENT** on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Hancock County for the Year 1991 (Emergency)

H.P. 1330 L.D. 1921

Reported that the same **Ought to Pass**, pursuant to Joint Order (H.P. 101).

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

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

Which was, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in concurrence.

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The Committee on **STATE AND LOCAL GOVERNMENT** on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Washington County for the Year 1991 (Emergency)

H.P. 1331 L.D. 1922

Reported that the same **Ought to Pass** pursuant, to Joint Order (H.P. 101).

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

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

Which was, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in concurrence.

The Committee on **UTILITIES** on Bill "An Act to Increase the Borrowing Authority of the Jackman Water District"

H.P. 1311 L.D. 1897

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.

Which was, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in concurrence.

**Ought to Pass As Amended**

The Committee on **AGING, RETIREMENT AND VETERANS** on Bill "An Act Relating to Ordinary Death Benefits under the Maine State Retirement System"

H.P. 859 L.D. 1225

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-450)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-450)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-450) **READ** and **ADOPTED**, in concurrence.

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

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The Committee on **BUSINESS LEGISLATION** on Bill "An Act to Require that Staff Management Companies Register with the State"

H.P. 704 L.D. 1008

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-438)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-438) AS AMENDED BY HOUSE AMENDMENT "A" (H-543) thereto**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-438) **READ**.

House Amendment "A" (H-543) to Committee Amendment "A" (H-438) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-438) as Amended by House Amendment "A" (H-543) thereto, **ADOPTED**, in concurrence.

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

---

The Committee on **BUSINESS LEGISLATION** on Bill "An Act to Clarify and Expand Reciprocity in the Certification of Nursing Assistants and Require the State Board of Nursing to Issue Certificates for Nursing Assistants"

H.P. 805 L.D. 1159

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-446)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-446)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-446) **READ** and **ADOPTED**, in concurrence.

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

---

The Committee on **BUSINESS LEGISLATION** on Bill "An Act to Amend the Unfair Trade Practices Act to Allow Consumers to Recover Damages"

H.P. 1057 L.D. 1546

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-447)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-447)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-447) **READ**.

On motion by Senator **CLARK** of Cumberland, Tabled until Later in Today's Session, pending **ADOPTION OF COMMITTEE AMENDMENT "A" (H-447)**, in concurrence.

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The Committee on **BUSINESS LEGISLATION** on Bill "An Act to Create the Board of Barbering and Cosmetology" (Emergency)

H.P. 1288 L.D. 1858

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-472)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-472) **READ** and **ADOPTED**, in concurrence.

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

---

The Committee on **EDUCATION** on Resolve, to Establish the Commission to Study the Feasibility of a Capital Cultural Center (Emergency)

H.P. 1164 L.D. 1705

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-453)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-453)**.

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

The Resolve **READ ONCE**.

Committee Amendment "A" (H-453) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **EDUCATION** on Bill "An Act Concerning the Maine Student Incentive Scholarship Program" (Emergency)

H.P. 1192 L.D. 1745

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-444)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-444)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-444) **READ** and **ADOPTED**, in concurrence.

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

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The Committee on **EDUCATION** on Bill "An Act to Amend the Specific Line Budgets for School Districts" H.P. 1203 L.D. 1759

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-445)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-445)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-445) **READ** and **ADOPTED**, in concurrence.

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

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The Committee on **FISHERIES AND WILDLIFE** on Bill "An Act Regarding Doe Permits" H.P. 1109 L.D. 1634

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-440)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-440)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-440) **READ** and **ADOPTED**, in concurrence.

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

---

The Committee on **HUMAN RESOURCES** on Bill "An Act to Improve Services to At-risk, Pregnant and Parenting Teens" H.P. 762 L.D. 1096

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-449)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-449)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-449) **READ** and **ADOPTED**, in concurrence.

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

---

The Committee on **HUMAN RESOURCES** on Bill "An Act to Provide Training for Long-term Care Facilities Personnel" H.P. 1056 L.D. 1545

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-448)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-448)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-448) **READ** and **ADOPTED**, in concurrence.

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



The Committee on **HUMAN RESOURCES** on Bill "An Act to Provide Accountability for Certain Purchased Services by the Bureau of Mental Health"  
H.P. 1252 L.D. 1820

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-474)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-474)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-474) **READ** and **ADOPTED**, in concurrence.

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

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The Committee on **JUDICIARY** on Bill "An Act to Amend the State's Statute of Frauds"  
H.P. 662 L.D. 941

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-465)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-465)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-465) **READ** and **ADOPTED**, in concurrence.

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

---

The Committee on **JUDICIARY** on Bill "An Act to Prevent Financial Gain by Convicted Drug Offenders"  
H.P. 969 L.D. 1410

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-464)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-464)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-464) **READ** and **ADOPTED**, in concurrence.

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

---

The Committee on **JUDICIARY** on Bill "An Act to Exempt Certain Medical and Juvenile Records from the Freedom of Access Law"  
H.P. 1144 L.D. 1669

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-463)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-463)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-463) **READ** and **ADOPTED**, in concurrence.

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

---

The Committee on **LEGAL AFFAIRS** on Bill "An Act to Encourage Students to Register and Vote"  
H.P. 773 L.D. 1105

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-452)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-452)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-452) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **LEGAL AFFAIRS** on Bill "An Act to Prohibit the Use of Stickers on Trespassing Motor Vehicles"

H.P. 1004 L.D. 1472

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (H-451).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-451).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-451) **READ** and **ADOPTED**, in concurrence.

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

---

The Committee on **LEGAL AFFAIRS** on Bill "An Act to Promote Efficient Enforcement and to Correct Inconsistencies in the Manufactured Housing Laws" (Emergency)

H.P. 1048 L.D. 1521

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (H-473).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-473).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-473) **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 Expand the Conflict of Interest Laws for Officers and Employees of the Maine State Housing Authority"

H.P. 981 L.D. 1426

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (H-466).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-466).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-466) **READ** and **ADOPTED**, in concurrence.

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

---

The Committee on **TAXATION** on Bill "An Act to Correct Certain Errors and Inconsistencies in the Law Enabling Municipal Development Districts"

H.P. 845 L.D. 1211

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (H-442).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-442).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-442) **READ** and **ADOPTED**, in concurrence.

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

---

The Committee on **TAXATION** on Bill "An Act to Encourage Increased Investment and Employment in the State"

H.P. 1156 L.D. 1697

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (H-443).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-443).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-443) **READ** and **ADOPTED**, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

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The Committee on TAXATION on Bill "An Act to Extend Certain Income Tax Benefits to Individuals Participating in Operation Desert Shield or Operation Desert Storm" (Emergency)

H.P. 1268 L.D. 1839

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

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-471).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-471) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

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The Committee on TRANSPORTATION on Bill "An Act to Enact the Passenger Rail Service Act"

I.B. 2 L.D. 720

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-461).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-461).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-461) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

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The Committee on TRANSPORTATION on Bill "An Act Regarding Vanity Plates for Automobile Dealers"

H.P. 822 L.D. 1176

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-460).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-460).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-460) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

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The Committee on TRANSPORTATION on Bill "An Act to Amend the Laws Governing Motor Vehicles"

H.P. 846 L.D. 1212

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-439).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-439).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-439) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

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The Committee on TRANSPORTATION on Bill "An Act to Provide for Equal Opportunity within the Maine Turnpike Authority"

H.P. 872 L.D. 1258

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-459).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-459).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-459) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

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The Committee on TRANSPORTATION on Bill "An Act to Clarify Use of Motor Vehicle Auxiliary Lights and Emergency Signals"

H.P. 990 L.D. 1435

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-458).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-458).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-458) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

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The Committee on TRANSPORTATION on Bill "An Act to Increase the Penalty for Failure to Secure a Child with a Seat Belt"

H.P. 1101 L.D. 1600

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-456).

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-456).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-456) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

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**Divided Report**

The Majority of the Committee on LEGAL AFFAIRS on Bill "An Act to Reform Campaign Finance"

H.P. 1162 L.D. 1703

Reported that the same Ought Not to Pass.

Signed:

Senators:

MILLS of Oxford  
KANY of Kennebec  
SUMMERS of Cumberland

Representatives:

LAWRENCE of Kittery  
JALBERT of Lisbon  
PLOURDE of Biddeford  
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" (H-441)

Signed:

Representative:

RICHARDSON of Portland

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

Which Reports were READ.

The Majority OUGHT NOT TO PASS Report was ACCEPTED, in concurrence.

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**Divided Report**

The Majority of the Committee on LEGAL AFFAIRS on Bill "An Act to Amend the State Ballot Laws"  
H.P. 1014 L.D. 1482

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-427)

Signed:

Senator:

SUMMERS of Cumberland

Representatives:

LAWRENCE of Kittery  
DAGGETT of Augusta  
RICHARDSON of Portland  
BOWERS of Sherman  
STEVENS of Sabattus  
JALBERT of Lisbon  
TUPPER of Orrington

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

Signed:

Senators:

MILLS of Oxford  
KANY of Kennebec

Representatives:

HICHENS of Eliot  
POULIN of Oakland  
PLOURDE of Biddeford

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

Which Reports were **READ.**

On motion by Senator **MILLS** of Oxford, the Minority **OUGHT NOT TO PASS** Report was **ACCEPTED.**

**Divided Report**

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Require the Popular Election of the State Auditor"

H.P. 1023 L.D. 1496

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

Signed:

Senators:

BERUBE of Androscoggin  
BUSTIN of Kennebec  
EMERSON of Penobscot

Representatives:

WATERMAN of Buxton  
HEESCHEN of Wilton  
KILKELLY of Wiscasset  
LARRIVEE of Gorham  
GRAY of Sedgwick  
JOSEPH of Waterville  
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-469)**

Signed:

Representatives:

NASH of Camden  
LOOK of Jonesboro  
SAVAGE of Union

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

Which Reports were **READ.**

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

Off Record Remarks

**Divided Report**

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine to Provide for the Direct Popular Election of Constitutional Officers

H.P. 1045 L.D. 1518

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

Signed:

Senators:

BERUBE of Androscoggin  
BUSTIN of Kennebec  
EMERSON of Penobscot

Representatives:

WATERMAN of Buxton  
HEESCHEN of Wilton  
KILKELLY of Wiscasset  
LARRIVEE of Gorham  
GRAY of Sedgwick  
JOSEPH of Waterville  
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-468)**

Signed:

Representatives:

NASH of Camden  
LOOK of Jonesboro  
SAVAGE of Union

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

Which Reports were **READ.**

The Chair moved **ACCEPTANCE** of the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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

**THE PRESIDENT:** The pending question before the Senate is **ACCEPTANCE** of the Majority **OUGHT NOT TO PASS** Report, in concurrence.

Will all those in favor of **ACCEPTANCE** of the Majority **OUGHT NOT TO PASS** Report, 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 Majority **OUGHT NOT TO PASS** Report was **ACCEPTED**, in concurrence.

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**Divided Report**

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine to Reduce the Size of the Legislature

H.P. 1122 L.D. 1647

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

Signed:

Senators:

BERUBE of Androscoggin  
BUSTIN of Kennebec  
EMERSON of Penobscot

Representatives:

WATERMAN of Buxton  
HEESCHEN of Wilton  
KILKELLY of Wiscasset  
LARRIVEE of Gorham  
GRAY of Sedgwick  
JOSEPH of Waterville  
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-470)**

Signed:

Representatives:

NASH of Camden  
LOOK of Jonesboro  
SAVAGE of Union

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

Which Reports were **READ**.

The Chair moved **ACCEPTANCE** of the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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

**THE PRESIDENT:** The pending question before the Senate is **ACCEPTANCE** of the Majority **OUGHT NOT TO PASS** Report, in concurrence.

Will all those in favor of **ACCEPTANCE** of the Majority **OUGHT NOT TO PASS** Report, 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.

19 Senators having voted in the affirmative and 11 Senators having voted in the negative, the Majority **OUGHT NOT TO PASS** Report was **ACCEPTED**, in concurrence.

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**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 **MILLS** for the Committee on **LEGAL AFFAIRS** Bill "An Act Regarding Liquor Procurement by the State"

S.P. 707 L.D. 1883

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**Ought to Pass As Amended**

Senator **BALDACCI** for the Committee on **BUSINESS LEGISLATION** on Bill "An Act Related to the Board of Licensure for Substance Abuse Counselors"

S.P. 505 L.D. 1343

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

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-294) **READ** and **ADOPTED**.

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

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Senator **RICH** for the Committee on **BUSINESS LEGISLATION** on Bill "An Act to Improve the Returnable Beverage Container Laws"

S.P. 698 L.D. 1863

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-289)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-289) **READ** and **ADOPTED**.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

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Senator BALDACCI for the Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Facilitate Review of Applications Submitted to The Department of Environmental Protection"

S.P. 481 L.D. 1283

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

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-297) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

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Senator BALDACCI for the Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Clarify the Solid Waste Landfill Remediation and Closure Program"

S.P. 639 L.D. 1687

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

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-296) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

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Senator VOSE for the Committee on MARINE RESOURCES on Bill "An Act Proposing a License Cap to Manage the Lobster Fishing Effort Through the Limited Issuance of Licenses"

S.P. 365 L.D. 967

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-290).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-290) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

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Senator BERUBE for the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Strengthen Municipal Borrowing Alternatives"

S.P. 331 L.D. 887

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

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-299) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

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Senator BERUBE for the Committee on STATE AND LOCAL GOVERNMENT on Resolve, to Allow the Department of Marine Resources to Convey Land

S.P. 691 L.D. 1837

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

Which Report was READ and ACCEPTED.

The Resolve READ ONCE.

Committee Amendment "A" (S-291) READ and ADOPTED.

The Resolve as Amended, TOMORROW ASSIGNED FOR SECOND READING.

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#### Divided Report

The Majority of the Committee on LEGAL AFFAIRS on Bill "An Act to Amend the Laws Concerning Solicitation by Law Enforcement Officers"

S.P. 634 L.D. 1682

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

Signed:

Senators:

MILLS of Oxford  
KANY of Kennebec  
SUMMERS of Cumberland

Representatives:  
LAWRENCE of Kittery  
JALBERT of Lisbon  
PLOURDE of Biddeford  
RICHARDSON of Portland

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

Signed:

Representatives:  
DAGGETT of Augusta  
POULIN of Oakland  
STEVENS of Sabattus  
TUPPER of Orrington  
HICHENS of Eliot  
BOWERS of Sherman

Which Reports were **READ.**

On motion by Senator **DUTREMBLE** of York, Tabled 1 Legislative Day, pending **ACCEPTANCE OF EITHER REPORT.**

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#### Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine to Provide State Funding of any Mandate Imposed on Municipalities

S.P. 42 L.D. 66

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-292)**

Signed:

Senators:  
BERUBE of Androscoggin  
EMERSON of Penobscot

Representatives:  
NASH of Camden  
LOOK of Jonesboro  
WATERMAN of Buxton  
KILKELLY of Wiscasset  
GRAY of Sedgwick  
SAVAGE of Union  
KERR of Old Orchard Beach

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

Signed:

Senator:  
BUSTIN of Kennebec

Representatives:  
LARRIVEE of Gorham  
HEESCHEN of Wilton  
JOSEPH of Waterville

Which Reports were **READ.**

Senator **BERUBE** of Androscoggin moved to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

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

**THE PRESIDENT:** The Chair recognizes that same Senator.

Senator **BUSTIN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I just wanted to call your attention to this Bill, and as you see again, I am on the other side of the two members of the Senate on the State and Local Government Committee. However, I think that this bears at least your taking a look at the Statement of Fact on Committee Amendment "A" (S-292), which tells you that, in fact, what we will then do is, any mandate that we pass down from the state over \$100,000, in some instances that is in the advocate, that the state would fund that. Now on the surface, that doesn't sound bad at all. It sounds like something that we ought to do. But, I would hold that there are a great many laws, for instance, let's take the seat belt law, and the one that we just passed that raises the fee that you have to pay if you get caught without putting a baby in the car seat. The fine is up to \$200, I think, on the second or third offense. But in any case, what that means is, that municipal police officers would be involved in that kind of mandate. If I were in town government, and I wanted to recoup as much money as possible, I could then say, "I now have to send my police officers not only to take care of juveniles, not only to rattle the doors on stores, not only to do any number of traffic violations, etc., but now I have to stop when I think I see that there is not a seat belt worn by a baby". I could stretch that a bit, and the municipal police office could say, "Give me some money to pay for my police officers, because they are doing the job that you just mandated us to do". Maybe that is okay, and I would accept it if we had a progressive income tax that paid for all of these things. But, I don't see any progressive income tax attached to this Bill. I didn't hear any suggestion of that in the Committee when we discussed this Bill. I don't know how we are going to pay for it, and if you are going to sit here and pass this Bill on the Seat Belt Law, and ask municipal officers to issue citations for that, then you have got to back it up with the money to follow it. It is as simple, and as complex as that.

There are many, many laws that we make here that have an effect on municipalities, I will grant you that. There is a fine balance to what you send down to the lower form of government, as the Federal Government sends it down to the State, which is the lower form of government on the Federal level. We have to find the money to fund those. I think that there is a fine balance there, and I think we should pay attention to it. I just don't happen to think that this all inclusive Bill is the way to do that. I urge you to vote against the Ought To Pass As Amended Report. Thank you.

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

Senator **BERUBE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. There are times you see, however, if you noticed early on the calendar, that the distinguished Senator from Kennebec, Senator



Bustin, is on the same side that I am. But on this one, that has not occurred.

First of all, I will immediately respond to her main argument against the Bill. Perhaps it is just this Bill that she said that they wouldn't have been able to prevent the Seat Belt Law, that is incorrect. If she had read the Bill, I know that she is very busy with her three Committees, and sometimes is unable to be present at all three Committees at the same time, she would have known that in the Bill, the law that we proposed excludes those areas that deal with safety. For instance, criminal laws. It does not deal with any law that would expand or amend existing criminal laws. That is very important to know. If we do indeed pass, and we presently do have a Seat Belt Law for youngsters, that would not effect that one bit. I would hope that is clear.

What this legislation would do, is first of all send it out to the people of this state to speak once and for all via the form of referendum to tell us enough is enough. We have heard them, I know you have, I hear them every day when I walk into the friendly corner supermarket. It would force us to think, or rethink our position on issues when we enact legislation. Monies have been very free coming down the turnpike for many years now, and we have passed some wonderful legislation sending it back to the local community, well thought out, necessary many times, but there was no problem, there were monies coming in at all levels of government. But, that day has gone by, the well has run dry, and the people's pockets are dry. If anything else, it will tell us to please think twice before you enact legislation, send it down to the municipal level, or the county level, and mandate that they do things. This would not address those issues that are less than \$100,000, but those that exceed \$100,000. It would deal with the statutes that we enact here in this Body. It would deal with Executive Orders that would exceed the amount stated. It would also deal with the infamous rules and regulations, which unfortunately, so many times exceed legislative intent. Those would be addressed.

If added as a whole within one calendar year, it could not exceed 1% of the previous years property tax revenue to a municipality. This is not done retroactively, but prospectively, so that if after January 1992, the Legislature decides that they want to send a mandate to the people back home, fine. If we have the money to do it, then let's pay for it now when we enact the Bill. But let's not keep putting the burden on the shoulders of the people back home. I think that we should think twice if we are thinking of additional tax revenues from those very people. I think this is simple. It will allow the people to speak by referendum. Someone may very well get up and say that we already have an existing statute, but you well know, as I do, that is only good for the existing Legislature that is in a session. It doesn't mandate much in the future. This would bind it, it would put it in the Constitution, and I think that is a feasible piece of legislation. If this is the only thing that we do for the people back home this session, then I think that we will have earned our keep. Thank you.

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

**Senator CLEVELAND:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I rise to support the good Senator from Androscoggin, Senator Berube on this legislation.

I think that this Bill is really quite simple. What it says is, that despite a program on its merits, or initiative and benefits, the Legislature might think about the costs. We no longer have the luxury to simply pass on legislation and the costs to local municipalities. If we are concerned about the fact that we lack progressive taxes here, think about the property tax that you are asking to support these programs, the most regressive of all taxes. It is absolutely incumbent that we as Legislators take the responsibility to fund necessary programs, and not to require the local property taxpayer, where there is no relationship between the value of the property and the tax paid to pick up more programs year after year that this Legislature passes on, they think it is good, but they don't want to raise the tax. They don't want to reform the tax system, and they don't want to find the money to pay for it. This would put it in the Constitution, so it could not be changed at the whim of changing moods and tides of the economy and this Legislature.

As a former local official I can tell you, property tax can stand no more. It has come time when we have to put a stop to it, and I hope that you all support this motion.

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

**Senator PEARSON:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This particular Bill troubles me somewhat, because, number one, it is a Constitutional Amendment. We enacted some legislation, which I co-sponsored a while ago, dealing with state mandates on municipalities. Number two, the thing that I am troubled with, and I really don't know the answer because I am sort of scurrying here to catch up on what it is all about, as I understand it, it is \$100,000 statewide, and the state would have to pay for anything over that. When you spread a \$100,000 statewide, that doesn't mean very much per municipality.

What I am troubled with is, and I am trying to think back about some of the things that we have done. For example, salt sheds. We have required towns to have salt sheds, and we have said in our mandate to them, "You pay half and we will pay half". I think that was the mix as I recall it. We put it into five different groups, one, two, three, four, and five. And the worse threats to the environment had to do it, and have done it, and I think number two has done it, and number three, and number four, and number five is still waiting to be done.

If this were to pass, as I understand it, the first ones would be 50/50, and the next ones, the state would have to pay for all of it. You could never have a 10/90 match. For example, we have right now a Federal Law that is passed on the Safe Drinking Act. It says that we have got to clean up our water facilities in the various towns. We now have a Bond Issue downstairs dealing with that particular topic, and that Bond Issue is going to be on a match basis.

This Constitutional Amendment would prohibit a match basis in sewer, water, and that sort of thing. The way that the match was for sewers and water treatment plants was, 90% paid for by the State and Federal Governments, and 10% by the municipalities. That is not a bad match for a municipality. If this were to pass, we would be paying the whole thing.

I wonder if somebody could respond to whether or not we could ever have matches in the future if this Constitutional Amendment was to be passed between a partnership between the state and the local municipality?

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

Senator **BERUBE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Frankly, I can't answer that as well as I might want to. I see no reason if we put monies into a General Fund through an appropriation, that we can't do what they do now when you give money to DHS, for instance, and they match it either 3 to 1, or 4 to 1. Number two, if it were a large project that we were mandating on the people back home, it would be paid in stages if the program had been implemented in stages. There would be a first stage, a second stage, a third stage, so if something were costing ten million dollars over a period of five years, it would be proportionately spread out over that five year cycle. I do not think that is an obstruction to passage of this Bill. Thank you.

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

Senator **BUSTIN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I am not sure I can answer the good Senator from Penobscot, Senator Pearson's question entirely, but part of the Bill is, that any Federal Mandates that come down to us, we do not have to fund, unless, we go above the Federal requirements. I guess you could fool around with how much the Fed's are matching, and how much we match, and how much over and above that mandate of the Fed's is a State Mandate, and there would be a lot of figuring in that. But, there is another important thing in the Bill under Three D, where it says, "If a local unit of government receives any funds from the sale or disposition of any real or personal property purchased with state funds, provided to implement a mandate, it must forward any funds left over after deducting the costs necessary to effect the sale or disposal to the state". It seems to me that it gets very sticky as to how you are going to handle all of this money.

Talk about bureaucracy, we have got a good one going here if we pass this Bill and put it out to the people! Wouldn't I like to sign right on to that. As a responsible Legislator, I can't do that. I have to look at what's in this Bill, and what we are asking the people of the state to vote on. I have to look at how we fund state government, and how we fund municipal government. I don't disagree that there is too much weight on the property tax, but if somebody has come up with a solution to figure out how, when we send money down to the municipality, they reduce their property tax, nobody has come up with that formula yet. You have to have some way where the

towns, and hopefully, it is the voters that stop it, and they are beginning to do that, where some towns, if they get more money from the state are also going to build more up for their towns, and we are still going to have the property tax, and it is still going to be too large, and it is still going to be too heavy, and we still haven't solved the problem.

Folks, we are not solving the problem with this Bill. There may be a way to do it, but this Bill is not the way.

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

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I rise to speak today as the Senator from District 34, and a taxpayer in the City of Biddeford.

I think there is no question what would happen if a Bill like this went out to the people for a vote, and I think that the majority of the people of the State of Maine would vote very strongly in favor of a Bill like this, and I would be amongst the majority of the people in the State of Maine. The days in this state where the state mandates and the municipalities pay, the days are over. They are done. They probably should have been done ten years ago. We have all seen time and time again the laws that were passed in this Body and the other Body that mandated to municipalities that they do certain things at a cost to them.

The good Senator from Penobscot, Senator Pearson, mentioned the salt sheds, and it was a half and half split. I would think that under this proposed amendment it wouldn't be a split. The state would have to pay for all of it. The good Senator from Cumberland, Senator Clark, just gave me some good advice, but if that is not the case, then I would like to know. But, I would like to stress again that the days where the state mandates and cities pay, and the burden is placed on the property taxpayers, those days are over. If we are going to pass Bills here where local property taxpayers have to pay for it, then I think we should take a long, hard look at that.

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

Senator **CLARK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. L.D. 66 is my Bill, as we say in the trade. Speaking as the individual Senator from Senate District 26, you wouldn't be surprised that I stand and speak on behalf of the Majority Ought To Pass As Amended Report from the Committee On State and Local Government.

While I believe that I can answer some of the questions that have been fielded and tendered here this morning, I would like to give you just a brief background of the genesis of this Bill. We all recognize that the 114th Legislature passed a law, now in the statutes, that provides for state mandates and reimbursement by the state for those mandates. We all also recognize, that there are also seven famous little words, "notwithstanding any other provision of the law", which can be included in any Bill, or Committee Report, so that the state funding

of those things which the state projects on Maine's municipalities can, in fact, be circumvented. Oh, how nicely they can be circumvented with just the inclusion of those famous little words! It is interesting that in times, particularly of fiscal stress, such as we currently enjoy (?), that those words can appear even from the most responsible of Committees, more precisely, the Committee on Appropriations and Financial Affairs as a last resort. There are times, when we as rank and file Legislators would plead with the members of that Committee to employ those words in order that the Bill that we are promoting receive ultimate enactment.

In the Campaign of 1990, the issue of state mandates emerged as perhaps with the exception of the State Budget, and the impending fiscal crisis looming in the horizon, as the single most prominent item. And time, and time again, in private as well as public forum, I was asked about the state mandates, and why the state doesn't pay it. And time, and time again, I referred to the statutory provision, which protects Maine's municipalities and all that they endure at the behest of State Government, but County and Federal Government, too. And more and more I recognized that those seven famous little words could be employed with such ease, that frankly, I wouldn't know if we used them. Either that or some other phrase that allows us to circumvent that statutory requirement. I was challenged three specific times to do something about it. That is the genesis of L.D. 66. It provides that the people of our state vote to include additional protection, it is called security, a real security blanket for Maine's municipalities. If the people want it, then they shall include it among the Constitution. Certainly, it merits as much consideration as the historic dedication of gas taxes to the Department of Transportation and Maine's Highway Funds. The municipalities of our state deserve no less.

Now to the Bill before us in its present form. It resembles very little, the simple little Bill that I introduced, and I applaud, and am in awe of the enormous amount of time and energy that was devoted by the Committee on State and Local Government to develop a Bill that addresses all the concerns expressed here this morning, and publically express my indebtedness to that Committee, including people who would rather not have this Bill pass, for improving the Bill well beyond my meager ability, to present this issue to them.

There have been questions regarding salt sheds, and the match proposed that has been, in fact, our past practice. That mandate is one which is consistent with the legislation, because it says that the sheds do not have to be built until the state comes up with its share. That seems fair and eminently sensible. The types of programs like the salt sheds matching grants, will be perfectly legal, they will be voluntary instead of mandatory. They can be made mandatory if the state wants to fully fund them. Regarding the \$100,000 per mandate, that was put in to avoid arguments over relatively small requirements, like sending tax abatement notices, for example. It is not the intent of the majority of the Committee, nor this sponsor, to "nickel and dime" the issue to death. We are concerned about major financial impacts, and the ultimate responsibility for funding those impacts, which we all know falls

almost completely on the property taxpayers of the municipalities that we serve.

L.D. 66 is an anti-mandate Bill. It admonishes the state to be ever so careful and prudent with reference to shifting the burden onto Maine's municipalities. It is the top priority of the Maine Municipal Association this year, as well you can imagine, and it is that organization that has contributed much to the deliberations of the State and Local Government Committee, in anticipating all of the contingencies that a Bill of this nature would address.

The good Senator from Kennebec, Senator Bustin, has raised the question that I believe that I can answer regarding criminal laws, and there is in the Committee Amendment, a clear statement that addresses her issue saying that criminal laws are not included within the definition of mandates. We all know that this Bill doesn't become law until the citizens of this state vote for it in statewide referendum. It has been suggested that the entire spectrum encumbered by this Bill is very sticky, and I respectfully disagree. I think it is crystal clear, absolutely crystal clear. And of course, the allegation that in order to be a responsible Legislator, one must vote against this, I would submit for your serious consideration, that one would be equally responsible to vote for this piece of legislation. Property taxes will always be there, and municipalities have the responsibility for determining the level of property taxation, certainly the state can be sensitive to the quandary that we have historically placed on the shoulders of local Legislative Body's. L.D. 66 as amended, is an effort on behalf of this Legislature and the majority of the Committee on State and Local Government, to shoulder the burden in a much more equitable fashion than we have done historically, or even traditionally. I would urge you to support the Majority Report. Thank you Mr. President.

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

**Senator BRANNIGAN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I am sorry I didn't hear the very beginning of the debate, but I am glad that I have heard the rest of it.

From what I hear, this does not sound like an anti-mandate Bill, it sounds like an anti-legislature Bill. I am disappointed that as many people as I admire speak in favor of this Bill, and I commend those who have taken the courage to go against it. I will join them.

I hear what people are saying. What I hear people saying is, that they want to see more statesmanship in the Legislature, and leadership throughout Augusta. What this Bill is saying is, the Legislature cannot honor the laws that it passes. We don't trust them, and I understand that. We just passed a law that says that we will not pass on more mandates until they are funded. Right away, we are ready to say, "They will never do that. They won't honor that. When they need to, they are going to bash us. Let's put it in the Constitution where it cannot be changed, where it cannot be tinkered with". Well, this law may very well be tinkered

with. How many times have we all been bashed with mandates. That word is thrown around here like a basketball. At least we should wait to see whether the law passed in the last session needs to be tinkered with in the area of mandates, and whether we need to have our hands tied, so that we can't stop doing bad things.

We are elected to look over the whole State of Maine, not just where we come from. There are times when things go on in parts of the State of Maine that all Legislators must vote to change. The Legislature has been doing that for many years. That is our job! For us to tie our hands and not be able to do that, I think is very wrong. The Bill's sponsor, Senator Clark from Cumberland has said that this isn't the simple Bill she originally put in. Well, if it is going out to a referendum for a Constitutional Amendment, it should be simple.

I believe that we do great disservice if we do not first of all allow the working out of the law that we have already passed as to what a mandate is. And secondly, that we tie our hands and say we are bad people, and we cannot do the job we are elected to do. Thank you Mr. President.

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

Senator **CARPENTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. It has already been stated here today that when this goes out for referendum, you will know what the vote is going to be. You know that the public is going to mandate that you give them no more mandates! I think we are well aware of the public feeling, and possibly, it would be an election issue, whether you support mandates or you don't. You really have to look at things very carefully, whether you should mandate anything. I don't believe that you should. I don't think that we should be mandated either. I have never voted for referendums. I won't vote for this one. It seems really odd that we are going to send out a referendum when we already know the results. The public will say no more mandates, and that is what we have already said, and I think future Legislators will agree.

Also, an Amendment to the Constitution is real severe. It is a serious item. I think that we ought to think about this, and defeat the Majority Ought To Pass As Amended Report. Thank you.

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The President requested that the Sergeant-at-Arms escort the Senator from York, Senator **DUTREMBLE** to the Rostrum where he assumed the duties as President Pro Tem.

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

Senate called to Order by the President Pro Tem.

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

Senator **BERUBE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This is not saying, like I heard the last speaker say, that this is a proposition to ban all mandates. That is not what this says. It simply says, "Mandate within reason, within our ability to pay for them". If we feel it is worthy, why can't we mandate it here through the General Fund, through regular access to the revenues that we have at our disposal?

I heard that many of the constituents back home don't trust us. I think indeed they do trust us! But, we just can't lead them down the wrong path. I think they trust me personally, as they trust every member of this Senate Chamber, and I certainly want to do in a small way what I can to insure that continued trust, that we don't spend more than they can afford to pay. I realize that there are certain groups who have opposed this right along, and they need not be mentioned. But, I think that many times we mandate, and unfortunately, those mandates are implemented with excessive gusto, if I can use the words by the people interpreting the laws that we pass here through rules and regulations. I think that we have to take a little responsibility for that now. Granted, there aren't many dollars available, but we are still managing to pass Bills here, that I suspect will end up on the Table, that some of them will be funded that will be mandates. They will come back to haunt us, because people back home will say our property taxes went up again. I think we are dealing, as we all know, with the monies that the people worked so hard to bring home every week. We don't have to extract the last ounce of money that they have. This is a small way to it. I think to do otherwise would continue to lessen our conscientiousness towards these people. Thank you.

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

Senator **PRAY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I rise today with mixed emotions about the proposal that is before you, and before we vote on it, I would hope to ask a few questions to try to clarify in my own mind the issue that is before us. Obviously, there is, as has come up in the previous discussion, some emotional tides that swing with the issue of mandates.

I have made it a practice over my years of public service, to meet with municipal officials and talk to them. As a matter of fact, several municipal officials serve in the Legislature. I will share a conversation that I had with a Head Selectman for the town of Greenville, who also happens to be a State Representative, who told me that on occasions, that it helps if you tell the public that it is a state mandate, even though it isn't, because then they won't argue about funding it at the local level.

I would like to ask this question of the Senate. Can you tell me what mandates really are? I have read the Bill, I know what the definition of mandates is. Can you tell me what a mandate really is, and can you give us several examples other than the salt shed? Let us talk as if we have not yet passed any of the mandates that we have on the books.

I know that there is a tie to the Federal Court Systems, and so forth. One of the things that immediately came to my mind, was access for the handicapped. The question is, though the Federal ruling has been made on accessibility to the handicapped, I think that we have over time extended beyond the minimum requirements of the court system, and have passed subsequent legislation for access to the handicapped. Would those be jeopardized? Would those types of things be jeopardized?

And any time we amend the Constitution, we need to be careful. Obviously, that is a very significant document of which all of us judge, and evaluate, and apprise the great democracy that we live in. That document is the principle consideration in how we treat one another in a country such as ours, and a state such as ours.

I happen to have the Register, and was just thumbing through the pages dealing with the Constitution. Under Article VIII, Part I, Section I, we talk about education. It talks that we in the Constitution say, "Several towns are to make suitable provisions at their own expense for the support and maintenance of public schools". But we know at the state level that we provide close to 50% of the cost of public education. As a matter of fact, I think that in 1990, not quoting from the Constitution, in 1990, the Legislative Act said we gave almost 900 hundred million dollars to municipalities through a variety of formulas and monies that are to their discretion in many instances, because some people already meet the mandates. Under Article VIII, Part II, under Municipal Home Rule in Section I, "The inhabitants of any municipality shall have the powers to alter and amend the Charter on all matters not prohibited by Constitution or General Law which are local and municipal in character". How do you interpret potential conflicting Articles of the Constitution, so that we clearly understand that we are passing? In reference to Municipal Home Rule, obviously, I would think if we pass this, this would define that General Law.

In furthering Article CXLIX, an Amendment that was Adopted in 1983, Section 23 says, "Municipalities reimbursed annually. The Legislature shall annually reimburse each municipality from state tax sources not less than 50% of the property tax loss suffered by that municipality during the previous calendar year because of statutory property tax exemptions or credits enacted after April 1, 1978. The Legislature shall enact appropriate legislation to carry out the intent of this section". It goes on to give a series of items that are not reimbursed under that.

I presently don't have the proposal before me, but I read it earlier, and had some concerns about the language in that legislation. The Senator from Penobscot, Senator Pearson, raised the question about if any way you caused the municipality to raise additional revenues, then you will be responsible for that cost. That becomes a mandate. Thus, if you have a matching program that requires a municipality has to raise money to get the money from the state, you are requiring or mandating that they raise the money in the first part.

The Senator from Cumberland, Senator Clark stated that is a voluntary effort. My interpretation, non-legal as it is, I guess I could raise some questions as to rather or not the state is forcing me to raise the money in the first place to do that. I represent a large rural area, obviously, as not financially secure or as wealthy as other geographical areas of the state, and again with the conversations that I have had with a number of municipal officials, when we have discussed a topic of mandates, I have asked them what are the mandates that you would have us get rid of. What mandates is it that we should not be doing? I can't remember a single conversation of which somebody said, "Here is a list of mandates that you shouldn't be doing". They have basically said, "No, we should be doing those, and we appreciate the fact that the state tells us, because that forces us to do it, because we should be doing it, but until somebody tells us to do it, we are not going to".

I don't know yet how I would vote on this proposal as it is before us because there is a lot of unanswered questions. I would not want to see us all of a sudden start taking the discretionary monies away from municipalities just to fund the so-called mandates that we have. I would like a further clarification on those, possibly, an entire list of what mandates are. I know that we did a Study a few years ago on the State and Local Government Committee, and they did a Study on mandates, and as I recall, I am trying to go back four or five years of reading that Report, the basic conclusion was that mandates were rather supported by the citizen as a whole. For that reason, I would like to have somebody respond to further clarify the mandates, give us some examples, and tell us what the pitfalls and benefits may be of this proposal. Thank you.

**THE PRESIDENT PRO TEM:** The Senator from Penobscot, Senator Pray, has posed a series of questions through the Chair to any Senator who cares to respond. The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator BUSTIN: Thank you Mr. President. Ladies and Gentlemen of the Senate. I rose because the good Senator from Androscoggin, Senator Berube, was not in the Chamber when the question was posed, so I don't know if she has been asked it. Perhaps somebody can write her a note and tell her what the questions were.

In the meantime, I would like to make some response, because the allegation that I didn't understand the Bill because I didn't have time to be in the Committee, because I handled too much, despite the fact that I handled too much, and I am not in Committee all the time, I try to make myself aware of all of those things that I at least take a stand on, or that have come before my Committees. It has been indicated, as it properly should be, that anything that has to do with criminality would not be covered under the mandates, and that is absolutely true.

However, the example that I used was the Seat Belt Law. The Seat Belt Law is a civil violation, not a criminal violation, so if you wanted to stretch the mandate that far, and I agree with you, I don't know myself, in my own mind, whether it would be a mandate or it wouldn't be a mandate, or whether you

would stretch it to that, I am using that as an off the wall example, because there are many, many other examples where we do send mandates down, that are clearly mandates, that clearly need to be funded by the State Government. Whether or not this Seat Belt Law, and you could make a case in court and take the state to court if you could do that, which I know that you can't, and say that, in fact, "This is costing me money because I have got to put another police officer on duty because the ones that I have now are too busy looking for kids strapped into cars with seat belts", then you might have a case. I don't know, that is stretching it, but I used that just as an example to get a hold on this particular vehicle.

Also, I wanted you to know that in the Hearing, and at the Work Sessions, the people who came there to testify in favor of this Bill, when asked by me if they agreed or disagreed with certain mandates, they inevitably said, "Yes they did". And they wanted the mandates, as the good Senator from Penobscot has indicated, Senator Pray, that in fact, the towns do want to see those mandates, and yes, they do good work, and yes, it is what they want. So, it leaves us in a dilemma. I understand the problem. I understand we need to do something about it. I just don't happen to think that this is the vehicle to do that with, that we need to find some other vehicle, some other way to address the problem. I thought about this problem all the years that I have been in the legislature, ever since they sent mandates down to us, and they are not paying for them, and they are not doing this, and they are not doing that. I don't know exactly how the school mandates are handled, but I do know that we fund anywhere from zero to 58% of state monies for school subsidies. How do you figure that one out? I don't know how you figure that one out. I am sure that somebody can come up with some formula.

The other point that I would make is, that what you are doing, in fact is, you are having the Fed's coming down on the states to fund programs, and then now, with this Bill, you will have municipalities coming up to the states to fund mandates, and mandates that we all know are probably needed. Now, I will grant you that there are some that may not be needed, and that there are some that were needed at one time, and now need to be taken off. That is what we do here every day, and that is what we are doing here today.

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

Senator **BERUBE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. While I was not in my seat, however, I was listening very carefully to what was being said.

First of all, to respond to the Senator from Kennebec, Senator Bustin, this is only to be applied prospectively. So if number one, if we create a Seat Belt Law in 1988, or 1989, or 1990, or 1991, that would have nothing to do with that. That would still have to be implemented. Secondly, anything that deals with public safety is not part of this. That I think we all know is not what we are talking about.

To give a definition of mandate, if the person who requested an explanation would kindly listen, we will tell him. Mandates include "Statutes, rules, executive action, or court interpretations which establish, expand, or modify activities of local units of government in such a way as to necessitate additional local expenditures, or which reduce the local government's ability to generate taxes".

I would also like to respond to what has been said previously, if I might rebut, regarding the argument about the 1828 Constitutional language of the time. In 1828, the only tax available was the property tax. There was no income tax. There was no sales tax. And further, importantly, the towns controlled exclusively education, number one. We receive presently, over or around a million dollars from both sales and income taxes, and yet, the state has said we pay for education, but we control the education mandates as well. What it does effectively is, it makes us a little more accountable, I think. It is an accountability check. What we pass here, more often than not, is what we would like, or certain interested groups would like to have. And if we are interested in implementing those by statute, then lets be brave enough, and courageous enough to fund it when it leaves the Chambers here. Thank you.

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

Senator **WEBSTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. We have heard previous speakers here today talk about how they talk to municipal officials, and there seems to be a wide support, at least in some areas of the state for the mandates that have come from this Chamber and the other Chamber, and have been signed by the Governor.

Let me tell you, that the area of the state that I represent, has been very concerned, and would have liked to have seen this kind of law on the books years ago. I was serving in the Legislature in 1984 when we passed the major super mandate in the history of the state, which required a number of things regarding education, and I remember debating specifically my reason for opposition of the 1984 Reform of Education. I stated at that time that I was supportive, and I think the citizenry of the state was supportive of doing something for education, but I did not support then, and I am offended now, that we never paid for those mandates. In 1984 I said, and a lot of the members of the Legislature said, that passing this law would cost the taxpayers of the municipalities of this state millions of dollars. Its a classic example of the Legislature coming here, meeting, discussing, and coming up with a wonderful idea and not worrying about how we are going to pay for it.

I find it amusing in some ways that many people who have supported many, if not all of the mandates that have been passed through this Legislature, now are endorsing this proposal. For that, I thank you. I am glad to see that you have come around, and I support this Bill wholeheartedly. Some of the mandates that have been passed by this Legislature that are not supported at all by the citizens, at least not if they have to pay for it, a good example is salt sheds. There is no one in this state, there is no one in this Body, or very few people, who like

the idea of rain polluting our ground by raining on the salt and polluting our ground waters. But to ask the Municipality of Madison, Maine, to spend a \$100,000 to build a building over a salt shed, is a lot of money, and I think that if the state wants to pay for it, and they want to pay 100% of it, then they ought to pay for it. Otherwise, we ought to let the municipalities of this state make their own choices.

So for that reason, and having seen history work here, and know the way that the Legislature works, knowing that good ideas come, we pass them and we worry about how somebody else is going to pay for them, I think it is a good proposal, and I would ask you to endorse it. Thank you.

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

Senator **PRAY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. First of all, let me say that I resent anybody attempting to characterize somebody that has a different opinion than they as somebody who is less caring in anyway about the property tax burdens, or the significance of this proposal that is before us. I am kind of caught in the middle. I have been involved with the Maine Municipal Association for the past couple of years. The Legislative Municipal Summit, a number of proposals that have been in on their behalf. I go to public meetings with my town officials, and I hear the rhetoric, and I hear the emotion, and that is why I referred to the emotions earlier, and tried to get beyond the emotions to look at the substance of the issue. When we sit down and start talking about the specifics in those instances, they come up with very few so-called mandates that we shouldn't be doing. I had asked earlier if I could have some examples, because I want to clearly understand what it is that we are going to be voting on, and how it is that we are going to be distributing the obligations and responsibilities to fund items.

The Senator from Androscoggin, Senator Berube, was absolutely correct about the reference to the time that we passed the Constitution of Property Tax, the primary source of taxation in funding for everything. But here we are, in 1991, and nobody as yet has amended the Constitution to change the education obligations and responsibilities. As a matter of fact, I think that the state ought to pay 100% of the cost of education. I think that there are some extra curricular activities which are important to education that could be a local option, and that the communities should raise the monies to pay for those things. But I think that education itself, compared to 1820, is significantly different. Look at who attends schools today compared to who attended schools in the 1820's. We provide an opportunity to every child today. That was not true 171 years ago. Not every child had the opportunity or the access to education.

We are a different world today. We are much more mobile. School systems in its origin used to basically provide education for individuals to stay in the local community and some way become a productive citizen. Selective though to certain individuals, but not to all. Today, we are such a mobile nation, when we provide an education for

somebody either in Lewiston, Lisbon, Millinocket, or Farmington, across the length and breadth of this state, we don't know where those kids are going to become employed, where they are going to become productive citizens. So we have seen the evolve in the evolution of the educational system, and to provide something far more than just what the local needs were.

The Senator from Franklin, Senator Webster, made reference to the salt sheds issue again. I was involved a couple of years ago with the Trish Bill, in the Town of Gilford, by Gilford Textiles. The town that was affected was the town of Howland, down river, in the Senator from Penobscot, Senator Pearson's District. If we didn't have this law already on the books, I guess my interpretation of a mandate would be the state passing a law that says that to discharge into the waters any type of toxic chemicals as a noncriminal violation, then that would be a state mandate, and the state would have to pay for the septic systems or the drainage system of that operation in the Town of Gilford. We probably would have been obligated in some way to pay for the impact on the Town of Howland, down river.

One of the reasons that we started passing environmental laws, because we saw the communities, and individuals weren't being accountable and responsible until they were mandated to be, and told to be. I just wanted us to clearly understand the significance of this. I do think that we should pay for mandates. But, I also think that we need to mix the responsibility of funding those to those who directly receive services and benefits from them. We have devised a number of formulas based upon valuation and a number of other things, some of them which I think are outdated, and should be constantly reviewed and updated, that also measures a communities ability to pay and that we provide financial assistance to them. Because we think that the legislation that we passed, and obviously, my ten years now having been half in the Minority and half in the Majority, that both political parties can accept the responsibilities of the fair amount of so-called requirements that are on the statutes. But we passed those, because it was to the benefit, and the health and safety, and the welfare of the public as a whole. We need to just be careful that we do not hamstring ourselves constitutionally to the point that some communities will be well taken care of, will provide for themselves all the things that they want. Other communities that are less fortunate, who don't have the valuation, or don't have the capacity within their community to provide to their citizens for the health, safety, and welfare of themselves, because we at the state level didn't have the money either, so we allowed either environmental laws, potentially educational laws, that would impact on the health and safety of our citizens.

I think just to be carried by the emotional tide into supporting the proposal without fully understanding it, would be an error. And obviously, I would need to say that I have full faith in the voters in this state in a referendum of any sort. But, I think that we need to be careful what it is that we send out, and the time frame that we send it out to them, so that they are dealing with it, fully informed to the implications. We yet in this Chamber



do not know the full implication of the proposal that is before us. Thank you very much.

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

**Senator PEARSON:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I am not one of those people that are opposed to the state paying for its mandates. I think that I can prove that more than anybody else, because I was a co-sponsor of the Bill that put it on the statutes that dealt with mandates. So, I don't speak from a position of being opposed to the concept. I need to have people understand that.

I just simply think, that when you are dealing with a Constitutional Amendment, you can't always see what is going to happen in the future. I think that you have to be very, very careful when the statute was passed, it was acknowledged by everybody that you could override the statute if you had to. I felt a little more comfortable about that because I couldn't see into the future for every contingency that might occur. And frankly, I wish that I had read this Bill. I am learning as we always do, while the process of this debate is going on, about the different contents of the Bill. It is just one of those things that I haven't had time to do. You are educating me here on the floor of the Senate.

But, I think that I heard somebody say, I think it was the Senator from Androscoggin, Senator Berube, in her definition of what constitutes a mandate, that it could be a court action, and that the state would pay for it. Now, on the surface, I don't have a lot of problems with that, except I sat here and I said to myself, "I have got to think this one out". All of the ramifications, and that is why I am so concerned, because I don't think I have the ability to think of all the ramifications. Certainly not in a matter of a few minutes, and I don't even think that I can do it in a matter of a year or so, because I haven't yet lived the rest of my life, and I can't think of everything that might come up.

But I did think of this. What would happen if you had an educational situation as it occurred in my hometown where I was raised, it is now in Senator Bost's District, the Senator from Penobscot, in the Town of Milford. A number of years ago a terrible thing happened. A little girl ran out behind a bus, and the bus backed up, ran over her, and killed her. It was just awful! Every town in that whole area just felt terrible about it. If you were a parent, one of the remedies being that you could never replace the child, no question about it, but you might go to court, and you might sue the school system. And you might very well win for negligence, you could you know. And in that case, the court would mandate that the town would pay, and we would be responsible for the mandate.

I just wonder if all the kinds of things that might happen in the future, have been considered, or if we even are able to consider every contingency that might happen in the future. Sitting here, I am thinking to myself over the years, and I understand that this is a prospective Bill, but I have a limited ability to think in the future. I can only think about what we have done in the past as we have gone

through the years. I remember thinking we are going to be fed plenty by the state, but I don't recall, it could have been mandated on the communities for public buildings. I think that we need to be very, very careful when we deal with Constitutional Amendments because, this has such huge restrictions on our ability to move in any directions that we might have to.

The fact that Senator Berube from Androscoggin, indicated to us that this does not effect safety issues, as a matter of fact, when I co-sponsored the Bill on mandates last time, that was my main concern that it didn't effect safety. Apparently, somebody has thought the same way I did, that we must be careful about safety. But what else must we be careful about? I can't think that we know all of those different contingencies.

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

**Senator CLEVELAND:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I hear and appreciate those who wish to be cautious, who wish to proceed with prudence when we take such an important act as putting something in the Constitution of our State. That is a right and just, and thoughtful way to proceed such an action. However, I think that the task that you ask, that we must foresee to the indefinite future every possibility, every circumstance, every kind of situation that we may somehow be bound with, then we cannot pass that test. We will never be able to pass that test, and we will never be able to amend the Constitution of this State.

But, I think if the test that you ask is the concept envisioned by this change to the Constitution reasonable and just in what it tries to achieve, and that is, that this Legislature be careful and prudent, and seek ways of funding the crucial needs of this state, other than requiring that it be paid by the local property tax, does this Constitutional Amendment tie the Legislator's hands? Certainly, it does. That is what it is intended to do. It is intended to say that one of the easier solutions to achieving a worthwhile end, is not to have your next door neighbor pay for what you want. If it is important, if this state needs it, if the citizens of this state support it, and want to see it accomplished, then we will find the resources to see that it happens, and we will not go and ask our uncle, or our cousin, or someone else as an allergy, the local property taxpayer to pay for it in that way. That is what this Bill does, it requires that we do that.

We have stated that we don't trust the Legislature, that there has been legislation already passed that says we are going to do that. Well, it is not a question of trust. If it is true that the Legislature will abide by what they passed, and will find funding, and will not pass mandates on, if that is a true statement, then there should be no objection to putting it in the Constitution, because that is what this Legislature will intend to do forever and ever then, and we are just writing it down into the Constitution to do that. Is this the perfect solution to the problem? It may not be.



But what I have heard here by the veterans, is that you have been here for decades or more, and you still don't have a solution. Well, it is time we begin to address the solution. The larger problem that this Bill addresses is tax and spending issues. It is time that we bring the policies of how we raise money, and how we spend them for the public good into the 20th Century. We no longer can use a system devised in the 1800's. In 1821 we became a state. To fund operations when we have problems and concerns of the 21st Century society, this Legislature has always found it difficult to deal with those issues. This is what brings this forward, and this is not going to be the last time you see this until we begin to address those critical issues, that we can't take the easy route out, we can't ask local taxpayers to fund every good program that we think of. But, we have to find reasonable and fair ways of raising revenue and allocating that if it is an important issue in this state. I think that this Bill goes in that direction, and I think that it does not unreasonably bind our hands, but what it does is forces this Legislature, and every future Legislature to be more creative, to work harder, and be fairer in the way they allocate expenses for programs.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Androscoggin, Senator Gauvreau.

Senator **GAUVREAU:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Like the good Senator from Penobscot, Senator Pearson, I, too, have learned a great deal in hearing the debate this morning, which on the large part has been informed and to the point.

I think that like most of us in the Chamber, I am generally disposed to opt for any mechanism, this included, which would advance the cause of progressiveness in financing governmental services. But like others, I do have some reservations, since we are proposing to graft into our State Constitution this prohibition upon state government. Unlike referenda questions, as I understand our Constitutional scheme, the only entity which can initiate changes in our Constitution is the Maine State Legislature. I have concerns if we were to succumb to the notion that we really should allow the people to resolve the basic policies. Frankly, I think most of us agree with the basic policy issue, that we should not thrust onto lower or other levels of government a large array of policies and programs in which we endorse. But, I am not certain, even having read the Bill and the Amendment three times this morning, I am not certain exactly what this Bill would do in some areas.

It has been mentioned, for example, that any enforcement of existing criminal statutes would fall outside the purview of this legislation on mandates. Of course that raises an immediate question, what about new criminal statutes? We do not live in a static society. Every year this Legislature, and certainly the Committee on Judiciary, is asked to consider attaching criminal prohibition, or criminal sanctions on certain type of conduct. Just this year, for example, we criminalized tree spiking. We also expanded many other areas of criminal law as well. It seems to me that most of these statutes would be enforced by local law enforcement agencies, municipal governments, or county governments. And are

we then going to fundamentally alter the traditional financing mechanism for enforcement of criminal statutes? We certainly would if we were to adopt without amending the provisions in L.D. 66.

The Senator from Kennebec, Senator Bustin, I think makes a germane point, a relevant point, in terms of civil infractions. As members of the Legislature are aware, perhaps the majority of cases which go to our District Courts are civil in nature, and not criminal in nature. For example, the vast array of motor vehicle violations are civil, they are not criminal. If you are picked up for speeding on the roads in the State of Maine, unless you are going 30 mph above the posted limit, you are committing a civil infraction. As we know, our local governments enforce those statutes. If we were to adopt further civil infractions, they would presumably be within the contours of this Bill, this Bill that would amend our State Constitution.

The question was asked by the good Senator from Penobscot, Senator Pearson, with respect to court interpretation. Again, I have only read the Amendment this morning, and like the good Senator, I am unable quite often to form and frame a meaningful opinion till I have had a chance to consider in some detail what is being offered to me. I do think that at first blush that language in the Bill as amended would address the good Senators concerns regarding the Maine Tort Claims Act. It seems that lines 24 through 28 of Page II of the Amendment, in fact, apparently will report to carve out judgments as are under the Maine Tort Claims Act, which could be probably be cleaned up a little bit. It refers to Tort Liability proceedings, I am not sure that I know what that really means, and I would suggest that be considered further because that might cause some real legal problems if we don't address that and resolve that.

Perhaps that is what I am most concerned about, is that even on a cursory review of the amendment, I have come up with four or five areas that cause me reason to doubt at this point. We are not talking about enacting a statute, which can be amended by future Legislators. We are talking about proposing for public consideration, legislation which has broad support among those here, and among those in our Districts. If we graft this into our State Constitution, we then will have a much more difficult problem at hand, if we find later on that there are problems with this.

I also take a different approach, which is perhaps not surprising, then the philosophy represented by the good Senator from Franklin, Senator Webster, who opposes every single state mandate in the name of education reform, I really wonder about the whole notion of maintenance of effort. It seems to me that there are some functions which are reviewed with the local police power, such as health, safety, and education. They are innately municipal in nature. But what if a town were to act irresponsibly, and were to go below a minimal level of safety? Are we to say that we cannot as a State Government insure some minimal level of performance, and the same might be true in education? Some members might believe that we at the state level should never ordain, for example, a class size, to

assure every student in our state some sort of meaningful access to education opportunity. I am not sure that I embrace that philosophy. I tend to look at the world not in black and white, I am partially color blind, but not monochromatic. I tend to appreciate the subtleties in areas that I look at, and I think that this Legislature should as well. In that, in no way I don't think should mean that some incumbent Legislator should fall victim to the political mantra that somehow one wants to perpetuate these various mandates. I would hope that the debate in our elections is more informed, more rational, more civil.

I also would pose a question through the Chair to whomever would care to respond. It seems to me that we could very adroitly extricate ourselves from the bowels of the predicament which we might find ourselves in if we were to adopt an overly constrictive Constitutional Amendment on mandates. Could we not, as a state, could we not as a state simply reduce our share of General Purpose Aid to localities in order to find the revenue to fund these mischievous state mandates? I am most concerned, because I have been provided with literature in the last week, which for me was most illustrative, which indicates that almost the entirety of revenues derived from the states' income tax goes to address our commitment to General Purpose Aid. In the future years, it is likely we are going to be eating into our share of states' sale tax revenues to address that program as well, General Purpose Aid. It seems to me that the Legislature might very well say, "Fine, we are going to hold the line, we believe in no mandates at all if they are not funded". But, on the other hand, we have got to cut back on GPA to find the money. It seems to me that we haven't accomplished a whole lot.

These thoughts are not reduced to informed opinion at this point, because I have only seen the amendment about an hour ago. I do intend to vote at first reader for this Bill, because quite frankly, I will have three chances on this Bill, and I am concerned that if the Bill goes out in its present form, and I believe it will, I want to have an opportunity to at least amend the Bill if need be to address some of the concerns that I have. I hope that in the coming days as we pause, and we consider the merit of L.D. 66, that these and other views be considered as well, because I believe that this Bill may well be right for amendment before we, as a Legislature, in good conscience could recommend this to the people of our state for a Constitutional Amendment. Thank you Mr. President.

**THE PRESIDENT PRO TEM:** Senator BERUBE of Androscoggin requested and received leave of the Senate to speak a fourth time. The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator BERUBE: Thank you Mr. President. Ladies and Gentlemen of the Senate. I think that to clarify what I recalled during the Hearing of the Work Session, we were told that the only time that Judiciary enters into this is, if the legislation of the statute goes before the court, and the court determines that it should exceed legislative intent. At that point, that is when the Legislature would have to pick up the costs. It is also my understanding from the Hearings in the Work Session,

that Tort Claims are exempted. I don't know, but that might clarify the legal minds.

If I may pursue, we talk about the purity of the Constitution, it is a wonderful document that certainly we should not toy with. However, I noticed in reading that we have adopted amendments to make in the Constitution to have our language gender neutral. We have changes in the Constitution that deal with tenures of sheriffs, that is important, but I think that a mandate is very, very important. We have an amendment that dealt with establishing the extent of insurance of loans to veterans, and it states the amount of 4 million dollars. If you look further down, there is all sorts of very interesting reading, one of which you will find that many moons ago, they placed in the Constitution that no Legislator can be arrested traveling to and from the Legislature to their residency. I don't think that this is a bad Bill, and I urge you to support it. Thank you.

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

Senator KANY: Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to vote for this Bill. I would really like to do it, but I have a problem. It is nice conceptually, it is great, and I symbolically would like to be able to vote and say, "Yes, I voted for that, I approve of that, it is a good idea". But, I don't know how precisely it is going to work.

As an example, let us say that the Legislature mandates something regarding solid waste, or some other public health issue on the Environment and Natural Resources. And we authorize a user fee from the local level. Would that be sufficient for our funding? Would that be considered funding, our authorizing a user fee to cover the costs of the municipalities?

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

Senator BRANNIGAN: Thank you Mr. President. Ladies and Gentlemen of the Senate. I think that the answer to that question is, we will know as the law we passed last session works its way through the workings of the Legislature.

We are really not talking about mandates here, we are talking about putting a statute in the Constitution. I am concerned that the Senator from Androscoggin, Senator Berube, often refers to what we are doing here is a statute. We are not. We are talking about amending the Constitution. Some of the things that she mentioned is amendments to the Constitution, such as Legislator's traveling back and forth is basic to the original Constitution Separation of Powers. There may very well be things that are frivolous in the Constitution. Let's not put anything else in there that would be frivolous.

Over and over again, the President of the Senate has asked, give us examples, not definitions, but examples, so that people here can get a feel for what they are voting on. We have had little or no example except salt sheds. As I hear that being talked about, it says, if somebody wants to pollute, they

can continue to pollute. There are certain times when we cannot allow that, and that is what this Legislature is for, as a Body of the whole, ruling the whole. I urge you to consider the seriousness of this vote, the attractiveness of voting for it, the statesmanship voting against it, if you have any doubts as have been raised by some of the Senators. Thank you.

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

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

A vote of Yes will be in favor OF **ACCEPTANCE** of the Majority **OUGHT TO PASS AS AMENDED** Report.

A vote of No will be opposed.

Is the Senate ready for the question?

The President Pro Tem noted the absence of Senator PRAY of Penobscot, and further excused him from today's Roll Call votes.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

**YEAS:** Senators BALDACCI, BERUBE, BOST, BRAWN, CAHILL, CLARK, CLEVELAND, COLLINS, EMERSON, ESTY, FOSTER, GAUVREAU, GILL, GOULD, HOLLOWAY, LUDWIG, MATTHEWS, MCCORMICK, RICH, SUMMERS, THERIAULT, TITCOMB, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT PRO TEM, DENNIS L. DUTREMBLE

**NAYS:** Senators BRANNIGAN, BUSTIN, CARPENTER CONLEY, ESTES, KANY, MILLS, PEARSON

**ABSENT:** Senators None

**EXCUSED:** Senator PRAY

26 Senators having voted in the affirmative and 8 Senators having voted in the negative, with no Senators being absent, and 1 Senator being excused, the motion by Senator BERUBE of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-292) **READ** and **ADOPTED**.

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

Off Record Remarks

**SECOND READERS**

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

**House As Amended**

Bill "An Act to Require the Department of Environmental Protection to Seek Authority to Administer the Provisions of the Federal Water Pollution Control Act"

H.P. 473 L.D. 667  
(C "A" H-432)

Bill "An Act to Amend the Laws Relating to Submerged Land"

H.P. 646 L.D. 920  
(C "A" H-433)

Bill "An Act to Amend the Shoreland Zoning Laws"

H.P. 709 L.D. 1014  
(C "A" H-434)

Bill "An Act to Make Emergency Changes to the Motor Vehicle Laws" (Emergency)

H.P. 816 L.D. 1170  
(C "A" H-423)

Resolve, to Establish the Commission to Study the Safe Operation of Truck Tractors

H.P. 874 L.D. 1260  
(C "A" H-426)

Bill "An Act to Clarify the Authority of the Department of Transportation to Acquire Property for Environmental Mitigation Purposes"

H.P. 956 L.D. 1383  
(C "A" H-425)

Bill "An Act to Require Minimum Training Standards for Construction Flaggers"

H.P. 1087 L.D. 1587  
(C "A" H-424)

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

Senate at Ease

Senate called to order by the President.

Resolve, to Develop a Statewide Health Insurance Program (Emergency)

H.P. 1184 L.D. 1727  
(C "A" H-406)

Which was **READ A SECOND TIME**.

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

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Bill "An Act to Amend the Laws Regarding Complaints against Physicians and to Require a Study Concerning Patient Information" (Emergency)

H.P. 825 L.D. 1179  
(S "A" S-298 to C "A" H-394)

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

Sent down for concurrence.

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**Senate As Amended**

Bill "An Act to Appropriate Funds for a Study of the Effectiveness of Education Reform in Maine" (Emergency)

S.P. 154 L.D. 366  
(C "A" S-286)

Bill "An Act to Amend the Laws Concerning Certification of Educational Personnel"

S.P. 326 L.D. 882  
(C "A" S-253)

Bill "An Act to Mandate the Use of Seat Belts"

S.P. 381 L.D. 1058  
(C "A" S-249)

Bill "An Act to Assist in the Management of Biomedical and Associated Wastes"

S.P. 424 L.D. 1136  
(C "A" S-275)

Bill "An Act Relating to the Education of Homeless Students"

S.P. 466 L.D. 1249  
(C "A" S-274)

Bill "An Act to Amend the Laws Relating to the Long-term Care Ombudsman Program"

S.P. 550 L.D. 1454  
(C "A" S-257)

Bill "An Act Relating to Court Security Personnel"  
S.P. 554 L.D. 1458  
(C "A" S-261)

Bill "An Act Relating to the Notice of Claim Provisions of the Maine Tort Claims Act"

S.P. 557 L.D. 1461  
(C "A" S-278)

Bill "An Act Relating to Registration of Electrologists"

S.P. 561 L.D. 1465  
(C "A" S-244)

Bill "An Act to Amend the Laws Governing License Plates and Placards for Disabled Veterans"

S.P. 585 L.D. 1538  
(C "A" S-247)

Bill "An Act to Clarify the Maine Juvenile Code"

S.P. 588 L.D. 1541  
(C "A" S-267)

Bill "An Act to Amend the Northern Maine Regional Planning Commission, Inc. and the Northern Regional Planning Commission, Inc. Charter"

S.P. 593 L.D. 1565  
(C "A" S-270)

Bill "An Act to Create a Preliminary Injunction for Certain Domestic Relations Cases"

S.P. 598 L.D. 1583  
(C "A" S-265)

Bill "An Act Concerning Motor Vehicle Registrations after Suspension of the Right to Operate a Motor Vehicle"

S.P. 599 L.D. 1584  
(C "A" S-262)

Bill "An Act Relating to Unavoidable Equipment Malfunctions"

S.P. 625 L.D. 1629  
(C "A" S-276)

Bill "An Act to Prohibit the Closing of State Liquor Stores"

S.P. 630 L.D. 1678  
(C "A" S-245)

Bill "An Act to Provide for the 1991 and 1992 Allocations of the State Ceiling on Private Activity Bonds" (Emergency)

S.P. 632 L.D. 1680  
(C "A" S-273)

Bill "An Act to Provide Additional Protection for Victims of Criminal Threatening and Terrorizing"

S.P. 638 L.D. 1686  
(C "A" S-279)

Bill "An Act to Increase Access to Federal Health Care Benefits"

S.P. 658 L.D. 1734  
(C "A" S-243)

Bill "An Act to Provide Better Regulation of the Practice of Architecture and Landscape Architecture" (Emergency)

S.P. 662 L.D. 1738  
(S "A" S-295 to C "A" S-282)

Bill "An Act to Improve the Execution and Administration of Arrest Warrants and Implement the Recommendations of the Warrants Subcommittee of the Commission to Implement the Computerization of Criminal History Record Information"

S.P. 672 L.D. 1786  
(C "A" S-264)

Bill "An Act to Authorize Operation of a 6-axle Single Unit Truck and a Combination Vehicle with a 53-foot Semitrailer Resulting from the Experimental Vehicle Program"

S.P. 674 L.D. 1788  
(C "A" S-248)

Bill "An Act to Annex the Town of Richmond to Lincoln County"

S.P. 683 L.D. 1811  
(C "A" S-280)

Bill "An Act Concerning Room Requirements for Hotels under the Liquor Licensing Laws"

S.P. 687 L.D. 1828  
(C "A" S-268)

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

Sent down for concurrence.

Bill "An Act to Provide Employee Protection in the Event of Closure or Reduction in Capacity of State Facilities, Programs or Services" (Emergency)

S.P. 370 L.D. 995  
(C "A" S-271)

Which was **READ A SECOND TIME.**

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

Bill "An Act Relating to Restructuring the Public Schools"

S.P. 445 L.D. 1189  
(C "A" S-246)

Which was **READ A SECOND TIME.**

On motion by Senator **BUSTIN** of Kennebec, Senate Amendment "A" (S-302) **READ** and **ADOPTED.**

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

Sent down for concurrence.

Bill "An Act to Provide Due Process To Participants in the Driver Education Evaluation Program"

S.P. 614 L.D. 1618  
(C "A" S-263)

Which was **READ A SECOND TIME.**

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

Senator **BUSTIN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Before we pass this Bill, I thought a few words ought to be said about it. I object to the enactment of this Bill. This Bill undoes any significant way of Maine's tough Drunk Driving Laws that we spent many years putting into place. In our wisdom, we have created a law that takes drivers' licenses away from OUI offenders. First offenders, as well as multiple offenders, lose their licenses for some specified period of time. Recognizing that OUI offenders constitute a risk to public health and safety, and themselves, we have established DEEP, the Driver Evaluation Education Program.

DEEP is our way to assess risk. What is the risk that this person will drink and drive again? What is the risk that this person constitutes to him or herself? As a Legislator, I hear from many people who have lost their licenses and are unhappy. I have to admit that I am pleased that DEEP makes the decision of the return of license, so that I do not have to. Return of license to a person who may decide to drive drunk again, is a decision which should not be made lightly. If that person is going to drive impaired again, that person jeopardizes my life, the life of my family, and the lives of other Maine citizens. And they have probably had more than one bite of the apple, as we say in Corrections, because they probably have driven drunk many times before they had been picked up that first time.

We do have a tough Drunk Driving Law, because drunk drivers kill people. We also need to remember that a drivers license is a privilege granted by the State of Maine. It is not a right guaranteed under the Constitution, or in our statutes. Abuse of the privilege means loss of license. A car is just as lethal of a weapon as a gun is. We withhold the

right to carry a gun from people who have been convicted of abusing them, and of jeopardizing public safety. So to, we withhold drivers privileges from people who have been convicted of misusing them. L.D. 1618 will substantially effect our road safety by returning drivers licenses to all, and I repeat all, first offenders immediately after the 90 day suspension ends. This will take place even if the person has been found to present a substantial livelihood of driving drunk again. To get to the point, L.D. 1618 will put convicted OUI offenders back on the road in 90 days, regardless of the risk that they pose. Sure, L.D. 1618 says that the license will be conditional. Nevertheless, OUI offenders will have a license within 90 days, and they will be driving.

Let me give you some sobering facts about drunk driving. The typical first time OUI offender has driven after drinking many, many times, and has a significant record of nonalcohol related traffic violations, and has a drinking problem, or he wouldn't have been picked up for OUI. Among first time OUI offenders, studies show that 25% are social drinkers, 25% are problem drinkers, and drive frequently while under the influence, and 50% have moderate or severe drinking problems. Alcohol related fatalities rose 30% last year. OUI arrests topped 12,000 for the first time. 4,000 of those arrests never go to DEEP. They drive without a license, they walk, or successfully avoid conviction. DEEP deals then with 8,000 OUI offenders a year. Of the 8,000, as many as 5,500 are first offenders. 12% of first offenders get referred for treatment. It is those individuals who may lose their license for more than 90 days. The rest complete the education program and get their licenses back in 60 days. 90 day suspensions are reduced by 30 days, if the DEEP class is completed early. Of first time offenders, 23% become second offenders. To summarize, although national studies show 75% of first time OUI offenders drive drunk often, in Maine, only 12% are referred for treatment and go beyond the 90 day suspension without a license. Contrary to what I have been hearing all session long, the majority of first time offenders are given the benefit of the doubt. They get their license back as soon as the mandatory suspension ends. We are not torturing and mistreating first time offenders in Maine. DEEP is not ruining the lives of thousands of first time offenders, and punishing them for life. It is simply not true. What our laws do, is establish some additional steps for high risk first time offenders. The 12% bounds to constitute a significant risk of driving drunk again, which adds up to about 660 people, who are referred for treatment for alcohol and drug problems. Some of the 660 end up in substance abuse counseling. Some just drive without a license. Some walk or get rides. A very few, vocal few, call their Legislators to complain.

Although many of us have told how first offenders get railroaded into counseling, and get stuck there, I want to point out that there are a number of safeguards built into our laws. There are carefully constructed procedures for appeal. The infamous 660 may seek a second opinion about the referral. If the second opinion is the same as the first opinion, they may appear before the Board of Appeals. If the Board of Appeals does not overturn the decision, they may take their appeal to Superior Court. I mention this

to let you know that the 660 are not forgotten. We do not throw away the key and condemn them from not getting a license forever.

There are checks and balances in this system that allow them to seek outside opinions about their use of alcohol and the return of their license. I am told that approximately 100 of the 660 appeal their treatment referrals every year. Those 660, as well as the 100 who appeal will be able to skip the whole thing if L.D. 1618 passes. L.D. 1618 will make sure that those 660, the 660 most likely to repeat the offense, the 660 who present the greatest risk to public safety, the 660 our tough OUI laws are designed for, are granted the privilege to drive immediately after the 90 day suspension has passed. Those individuals will be back on the road in 90 days, regardless of the risk that they pose.

I know that L.D. 1618 only gives a conditional license. So what! Conditional or full, the bottom line is that driving privileges are restored. The highest risk population of first time offenders will be driving immediately. Why should they sweat it? Why should they stop driving impaired? All they need to do is wait for the conditional license to arrive. L.D. 1618 makes a joke of our tough laws. It is a mockery, because it returns their license. Our OUI laws were designed to withhold the license and encourage a change in behavior before license restoration. That is what makes the law tough. No behavior change, no license! L.D. 1618 makes it easy. OUI offenders won't need to worry that if they drink and drive that they won't get their license. All they need to do is wait 90 days, take the DEEP Education Class, and they get their license to drive.

We need to remember that a car is a lethal weapon. We deny convicted felons the right to own a gun. Should we give convicted OUI offenders a vehicle on the very day their suspension is over? I thought this Legislature wanted to be tough on drunk drivers. I thought that this Legislature wanted to keep drunk drivers off the road. Our laws currently take a good stab at it. If you get caught driving drunk, you go to DEEP and are evaluated. Most first time offenders complete DEEP and get their license back. The most risky, the 12% that get referred for treatment, are kept off the roads longer. When their drinking and driving behavior has been addressed, they get their drivers license back.

I continue to believe that this is appropriate. I don't want drunk drivers on the road. A vote for L.D. 1618 is a vote against OUI laws. It is a license to drive intoxicated. I believe that L.D. 1618 will result in higher costs for government, larger numbers of repeat offenders, increased drunk driving offenses, and higher alcohol related fatalities. What one of us wants to face the results of our actions today, if it is our family member who is killed by a drunk driver with a conditional license? We need to answer that question, each and everyone of ourselves. This is merely a way for us to ensure that there has been a behavior change, and that they will not drive drunk again, even knowing that 23% of those first time offenders will be back on the road, even now, even with the laws that we have now, and drive drunk again. Thank you.

## Off Record Remarks

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Androscoggin, Senator Gauvreau.

Senator **GAUVREAU:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I rise today to explain why the Joint Standing Committee on Judiciary unanimously recommended the Bill which we have before us for a Second Reader, which contrary to the commentary offered to us by the good Senator from Kennebec, Senator Bustin, would not effect the type of wholesale revision in Maine's armament against OUI offenders, which she suggests that it would do. In fact, the Bill is purposely modest in scope.

The Joint Standing Committee on Judiciary conducted four Work Shops on this Bill, and worked the Bill to a great extent, and tried to achieve a reasonable balance between the public's unquestioned right to safety, and allowing an individual a limited opportunity to maintain a special license while that person, in good faith, does in fact, participate in our DEEP program.

Let me back up just a little bit, and I don't want to do this, but I feel that perhaps it is important to provide framework in which offenders now have the licenses suspended. As you perhaps know, there are two separate and independent entities which suspend motor vehicle licenses in our state after a person is convicted of the offense of operating under the influence. First, the court, for the first time offender will, in fact, automatically impose a license suspension of at least 90 days. It can impose more than that, but he has to impose at least 90 days. Beyond that, the offender does have to go through and complete to the satisfaction of the Secretary of the State, the Driver Education and Evaluation Program, commonly referred to as DEEP.

What this Bill would do, first of all, it is limited to first time offenders. It does not apply to anybody who is a second or multiple offender. It only applies to first time offenders. And as you know, there are two phases in the DEEP Program. The first stage is the educational component. And that component basically consists of three or four nights that a person goes to an educational program. When that it is completed, the person is then assessed to see whether or not the person has any significant potential to constitute risk to Maine motorists if the person's license were to be restored.

The overwhelming majority of the people who go through DEEP, after they complete Phase I, they have their licenses restored to them. A small percentage, I believe it is in the area of 8%, then are assessed that they have an alcohol problem, and they have to go through the treatment component of DEEP. This Bill really addresses that population. What the Bill would do, is provide that after a person goes to the educational mode, and is determined to have a problem, and then is referred to the treatment mode, that person is eligible to receive a six month conditional license, provided that the Secretary of State is satisfied that continued driving does not constitute a problem or a danger to our motoring

public, and further provided that the person does, in fact, in good faith, take part in the treatment program. Suffice it to say, the Secretary of State has now, and will have even under this Bill, authority at any time to suspend the license, or conditional license of a motorist whom the Secretary of State believes to cause a problem on our roads. And further, if the offender should not take part in the DEEP Program, and the treatment program, the license can be suspended. It is a one-time, six month conditional license. If the offender needs treatment in excess of six months, they cannot apply for another extension of the conditional license, so it is a one-time, six month provision.

Now I am well aware of the concerns, and the appropriate concerns of the public who have gone through the horrendous trauma of having friends, relatives, and acquaintances, maimed, or killed by irresponsible drivers. Obviously, none of us in this Chamber, none of us in this Legislature support, or would defend that type of behavior. But, in reality, we have to have some balance, we have to recognize that many people, in fact, will benefit from treatment, but are not the type of menace that the good Senator from Kennebec, Senator Bustin would have us believe. These people, I think, are appropriate candidates for this conditional license.

The key point that I want to leave with you today is, that the Secretary of State at all times can revoke any license to any motorist in the state, if the Secretary of the State has reason to believe that the motorist is a problem. Obviously, if a therapist has concerns about an offender, the therapist can communicate those concerns to the Secretary of State, and the Secretary can then revoke the license. That is current law, and that will remain current law. The Committee on Judiciary unanimously felt that this was a reasonable approach to the begetting problem of the elongated process whereby people are in treatment, and can't get their license back. It is a reasonable approach. I would urge you to go along with this unanimous Committee Report. Thank you Mr. President.

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

Senator **MATTHEWS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. It has been a long morning, and I really am saddened that I have to make it a longer morning. But I am really concerned about this legislation we are about to pass today. With all due respect to the good Senator from Androscoggin, Senator Gauvreau, who is an illustrious member of this Body, and one whom I listen to when he speaks on any issue, I must differ with him today about the direction that we are headed with the passage of this law.

Maine has prided itself in its attempt to protect the public from those that choose to drink and drive on our highways. We have been a leader with respect to the .08 blood alcohol level, with respect to the DEEP Program, and education for those that are first time offenders, with the suspension of licenses, involvement of not only our court system, but now the Administrative Court and the Secretary of States Office, we have been a leader in protecting the public. By passing the Bill today, what we are basically doing is putting at risk thousands of Maine

people that drive our highways and choose to obey the law, and not drink and drive.

Last night we heard the good Senator from Aroostook, Senator Collins talk about the Report from the Bureau of Highway Safety on another issue. I would like to mention part of that article by the Highway Safety Bureau, and just read to you a couple of paragraphs. Again, this was taken from the March issue of this publication. "215 people died in 1990 highway crashes. Maine closed out 1990 with 215 highway fatalities, 23 more than in 1989, but 5 less than the five year average. Richard Perkins, Director of the Highway Safety, attributes the increase in deaths over 1989 to many factors, including alcohol. Though the overall trend in alcohol related deaths has been downward over the last five years, the rate of alcohol related deaths was up, slightly, from 32.2% to 32.7% in 1990. With OUI arrests substantially increasing each year, Perkins worries that the public is again becoming complacent with the impaired driving issue." Boy, how true those words are today. "A goal of this Bureau, and the Maine Highway Safety Commission each year is to constantly remind people that impaired driving is still our most serious highway safety problem, and we need to continually concern ourselves with it", says Mr. Perkins.

The legislation attempts, as the good Senator from Androscoggin, Senator Gauvreau mentioned, to deal with some of the concerns that Legislators have had, and constituents have had with respect to the first time offender program. I know that we have heard the expression of how the Legislature reacts to problems and issues. I think today the expression of "Using an elephant gun to kill the mosquito" is probably a good one. This is probably using the "Mack truck with the impaired driver to run over the insect". I don't understand why we are taking this action today, when we know that this issue and the concerns of constituents, and concerns of fellow members of the Senate, and the other Body, will be discussed by the Audit Committee, and I am sure other Committees, and Senators, and members of this State House would be welcome to participate in that discussion. Why we would take this chance with Maine's record, truly typifying the motto of Dirigo, leading the country, why would we take a chance with the safety of innocent men, women, and children on our highways by first time offenders that we are now automatically returning licenses to, irregardless of blood alcohol level, irregardless of assessment done by a therapist, irregardless of what DEEP says, or anyone else says, why are we going to give these individuals their license to drive?

I know I have said it, and I am going to say it again, it is a tremendous leap backwards! Put into context, ladies and gentlemen, with respect to drinking and driving, one should remember that this country is rather soft when compared with other nations. I think that I said it a year or two ago about what other countries do to those that drink and drive. I am not going to get into that at this time. But, we are talking about public safety.

The good Senator from Kennebec, Senator Bustin, mentioned the percentages. 25% of those that are first time offenders are people that have a serious problem with drinking. Serious problems, and you are

going to give those people their license back right after the 90 day suspension? Bang! They get their license. Bang! They are right on the road again. And somebody is going to get hurt, ladies and gentlemen.

The courts have clearly stated, unequivocally, that Legislatures have a right to remove the license administratively. The public safety issue is paramount, that is why the courts have given states the right to have road blocks. That is why we have made so much progress over the years. I feel I am standing up in front of a steamroller that is going to roll right on over me and others, and citizens, because some problems have happened. But, this is a Body where rational thinking prevails, and does time and time again, and I am very proud to say that. We don't have to jump and take this tremendous risk.

There are, as has been mentioned in this discussion, procedures whereby the counselor can appeal to the Secretary of States Office, to have the Secretary of State suspend the license during the six month period of treatment. I would like to see how that is going to work, ladies and gentlemen, in reality. How long that is going to take, when an attorney will get involved in many cases, but the process will take a long time. It is not as simple as a phone call. There is an appeal process here, a Hearing process. And during that time, doggone it, a driver that is drinking is going to be driving the Maine roads! Putting people at risk! I really fear, and I hope that this doesn't happen, that we are going to be back next year undoing what we have done.

This is a mistake. This legislation is a mistake. The issue behind its evolution may have some credence, and I don't disagree with that, but the way to resolve it, ladies and gentlemen, the way to resolve this problem of some Legislators, and constituents, is not to use the public safety in such a way to put them at risk. It can be done more logically, more humanely, and more rationally, by looking at this issue. Think about it, ladies and gentlemen of the Senate, driving home this afternoon or tonight. And an individual who is a first time offender with a .24 blood alcohol level, he is going to have his license, and possibly be continuing to drink. This process of counseling doesn't work over night. Education doesn't work overnight. There are no answers, there are no quick-fix solutions for this kind of an issue. Having worked with those that drink, and have driving issues, and other kinds of concerns, I can tell you it takes a lot of hard work, you get a lot of issues of denial that are real problems to break through, and it takes weeks of treatment for many individuals. 12% nationally, the conservative trend are alcoholic, we are going to put these people out on the road? With all of the awareness and the education that we have, we still have people that drink and drive. Does that tell you something? The reason that they drink and they drive is because we have a very pervasive problem, and individuals who cannot control the drinking, you are going to give them their license back? The license is usually used as a part of the treatment process. Maybe not the big issue, and you attempt to make their health and their rehabilitation that main issue, but ladies and gentlemen, you use what you can in treatment, and the individual has to understand that they cannot continue to drink and drive, that



society says no! The first time, no!

I really hope, and I pray, that you will think this legislation through. Is the public risk we are about to take worth what we are doing here? Or can we resolve this issue and protect our citizens? I think we can. I would be willing to work with anyone to try to resolve this thing! I have a lot of faith in the Judiciary Committee, and its Chair, who is probably the most articulate member I have ever known in this Legislature, a man of great compassion, plus the intellect, Senator Gauvreau. And doggone it, I know we can find an answer. Thank you Mr. President.

Senator MATTHEWS of Kennebec requested a Division.

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 PRO TEM:** The pending question before the Senate is **PASSAGE TO BE ENGROSSED, As Amended.**

A vote of Yes will be in favor of **PASSAGE TO BE ENGROSSED, As Amended.**

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

**ROLL CALL**

**YEAS:** Senators BALDACCI, BERUBE, BOST, BRANNIGAN, BRAWN, CAHILL, CARPENTER, CLARK, CLEVELAND, COLLINS, CONLEY, EMERSON, ESTES, ESTY, GAUVREAU, GILL, GOULD, HOLLOWAY, KANY, LUDWIG, MILLS, PEARSON, RICH, SUMMERS, THERIAULT, TITCOMB, TWITCHELL, VOSE, THE PRESIDENT PRO TEM, DENNIS L. DUTREMBLE

**NAYS:** Senators BUSTIN, FOSTER, MATTHEWS, MCCORMICK, WEBSTER

**ABSENT:** Senators None

**EXCUSED:** Senator PRAY

29 Senators having voted in the affirmative and 5 Senators having voted in the negative, with no Senators being absent, and 1 Senator being excused, the Bill was **PASSED TO BE ENGROSSED, As Amended.**

Sent down for concurrence.

Bill "An Act to Establish a Public Solid Waste Facilities Loan and Grant Program" S.P. 641 L.D. 1689 (C "A" S-277)

Which was **READ A SECOND TIME.**

On motion by Senator BUSTIN of Kennebec, Senate Amendment "A" (S-303) **READ and ADOPTED.**

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

Sent down for concurrence.

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Off Record Remarks

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**ENACTORS**

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

An Act to Provide Funds for Women with Substance Abuse Problems

S.P. 40 L.D. 64  
(C "A" S-182)

An Act to Amend the Penalties for Habitual Offenders and Operating After Suspension

H.P. 71 L.D. 99  
(C "A" H-279)

An Act to Amend the Unclaimed Property Act

S.P. 117 L.D. 216  
(C "A" S-155)

An Act to Amend the Subdivision Laws within the Jurisdiction of the Maine Land Use Regulation Commission

H.P. 244 L.D. 335  
(C "A" H-329)

An Act Concerning Overboard Discharge Inspection Fees

H.P. 299 L.D. 420  
(C "A" H-256; H "A" H-418)

An Act to Protect Retail Sales Employees

H.P. 352 L.D. 482  
(C "A" H-325)

An Act Concerning Late Support Payments  
H.P. 384 L.D. 558  
(H "A" H-336 to C "A" H-221)

An Act to Regulate the Use of Video Display Terminals

H.P. 655 L.D. 934  
(C "A" H-323)

An Act to Incorporate Braille Reading and Writing in a Blind Student's Individual Education Plan

H.P. 656 L.D. 935  
(C "A" H-318)

An Act to Permit Earlier Repayment of Contributions to the Maine State Retirement System

S.P. 359 L.D. 961  
(S "A" S-209)

An Act Concerning the Sales and Use Tax on Aircraft Parts

S.P. 375 L.D. 1009  
(C "A" S-160)

An Act to Resolve Municipal Secret Ballot Elections that Result in a Tie Vote

H.P. 735 L.D. 1039

An Act to Amend and Add to Certain Provisions of Geographic-based Information Services

H.P. 743 L.D. 1047  
(S "A" S-191)

An Act to Protect the Rights of Independent Sales Representatives after Termination of Their Contracts

H.P. 764 L.D. 1098  
(C "A" H-347)

An Act to Clarify the Appointment and Dismissal of the Warden of the Maine State Prison

H.P. 775 L.D. 1107

An Act to Clarify the Appointment of Civil Emergency Preparedness Directors

H.P. 810 L.D. 1164

An Act Regarding Taking Scallops in the Swan's Island Cable Area

S.P. 437 L.D. 1181  
(C "A" S-183)

An Act Concerning the Suspension of Licenses by the Commissioner of Marine Resources

S.P. 457 L.D. 1233  
(H "A" H-422)

An Act to Amend the Motor Vehicle Dealer Manufacturer Laws

S.P. 459 L.D. 1235  
(C "A" S-175)

An Act to Amend Certain Provisions of the Insurance Code Involving the Powers of the Superintendent

H.P. 867 L.D. 1247  
(C "A" H-315)

An Act Concerning the Packing of Soy milk and Flavored Milk

H.P. 870 L.D. 1256  
(C "A" H-341)

An Act Regarding the Regulation of Customer Premise Wire and Interexchange Carrier Selection

S.P. 492 L.D. 1330  
(C "A" S-184)

An Act to Enhance Social Services and Therapeutic Patient Activities in Nursing Homes

S.P. 494 L.D. 1332  
(C "A" S-181)

An Act to Clarify Certain Commercial Vehicle Size and Weight Provisions

H.P. 936 L.D. 1356

An Act to Provide Confidentiality for the Records of Individuals Who Receive Funds from a Community Development Program Created Pursuant to the Maine Revised Statutes, Title 30-A, Chapter 205

S.P. 527 L.D. 1405  
(C "A" S-157)

An Act to Facilitate the Delivery of Family Support Services

H.P. 1013 L.D. 1481  
(C "A" H-321)

An Act to Make Miscellaneous Changes to the Maine Revised Statutes, Title 34-A

S.P. 569 L.D. 1489  
(C "A" S-169)

An Act to Regulate Fines for Prohibited Acts Concerning the Use of Public Ways and Parking Areas Maintained by the State

H.P. 1020 L.D. 1493  
(C "A" H-333)

An Act to Amend Certain Laws Governing Hazardous Waste, Septage and Solid Waste Management to Include a Land Acquisition and Eminent Domain Provision for the Remediation of Hazardous Substances and to Provide for the Reimbursement of Expenditures Made for the Acquisition of Property

H.P. 1027 L.D. 1500  
(C "A" H-327)

An Act to Amend the Charter of the Presque Isle Sewer District

H.P. 1028 L.D. 1501  
(C "A" H-320)

An Act to Amend the Definition of "Regional Association" under the Laws Relating to Waste Management

S.P. 595 L.D. 1580

An Act Relating to the Jail Operations Surcharge Fund

S.P. 612 L.D. 1616  
(C "A" S-136)

An Act to Clarify the Role of the Maine Youth Center

H.P. 1161 L.D. 1702  
(C "A" H-348)

An Act to Establish a Grading System for Maple Syrup Produced in the State

S.P. 663 L.D. 1739  
(C "A" S-185)

An Act to Modify the Maine Land Use Regulation Commission Requirements Relating to Deer Wintering Areas

H.P. 1232 L.D. 1796

An Act Relating to Tax Refund Anticipation Loan Disclosures

H.P. 1246 L.D. 1813

An Act to Authorize Employees of a Participating Local District to Participate in a Qualified Alternative Pension Plan

H.P. 1248 L.D. 1815

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

20 Senators having voted in the affirmative and 12 Senators having voted in the negative, this Bill was **PASSED TO BE ENACTED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

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An Act to Share Proportionately the Public Safety Costs for the Capitol Area

H.P. 411 L.D. 594  
(H "A" H-345 to C  
"A" H-228)

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

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An Act to Ensure Community Participation in Substance Abuse Programs and Planning

S.P. 237 L.D. 628  
(C "A" S-154)

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

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An Act to Amend the Motor Vehicle Title Laws

H.P. 457 L.D. 648  
(C "A" H-307)

On motion by Senator **THERIAULT** of Aroostook, placed on the **SPECIAL HIGHWAY TABLE**, pending **ENACTMENT**.

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An Act to Amend the Severance Pay Laws

S.P. 84 L.D. 157  
(C "A" S-159)

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

**THE PRESIDENT PRO TEM:** The pending question before the Senate is **ENACTMENT**.

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

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

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An Act to Amend the Law Concerning the Maine High-Risk Insurance Organization

H.P. 546 L.D. 783  
(H "A" H-366 to C  
"B" H-316)

On motion by Senator **CLARK** of Cumberland, Tabled 1 Legislative Day, pending **ENACTMENT**.

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An Act to Clarify the Funding of Child Care Services and Parenting Education

H.P. 639 L.D. 913  
(C "A" H-317)

On motion by Senator PEARSON of Penobscot, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

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An Act Concerning Unemployment Benefits During Lockouts

H.P. 649 L.D. 923  
(C "A" H-326)

Senator CAHILL of Sagadahoc requested a Division.

**THE PRESIDENT PRO TEM:** The pending question before the Senate is ENACTMENT.

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

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

19 Senators having voted in the affirmative and 14 Senators having voted in the negative, this Bill was PASSED TO BE ENACTED and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

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An Act to Amend the State Government Financial Disclosure Laws

H.P. 733 L.D. 1037  
(C "A" H-304)

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator CAHILL: Thank you Mr. President. Ladies and Gentlemen of the Senate. I would just like to take a minute and discuss this bill, because I don't think that it has been discussed in the Senate this year.

Last year, this Legislature passed what I considered to be landmark legislation dealing with financial disclosures of State Legislatures, as well as other people in high government positions. At the time, I think we applauded ourselves for being one of the few states to have a very comprehensive reporting law. As you know, Maine has what we consider a very "squeaky clean" process as far as disclosure, and I think we should be very proud of that.

This Bill, however, goes one step towards watering down, in my opinion, of that law that I think we so proudly enacted last year. What it would do is, change what is to be considered a reportable liability under the disclosure laws. It would say that, "A reportable liability is any unsecured loan, except a loan made as a campaign contribution and recorded as required by law, of \$3,000 or more, received from a person not a relative. Reportable liabilities do not include credit card liability, an educational loan made or guaranteed by a governmental

entity, education institution, or a non-profit organization, or a loan made from a state or federally regulated financial institution for business purposes."

I believe that these loans should be reportable under our finance laws. I think that any time that an unsecured loan of more than \$3,000 is made, regardless what the situation is, it should be for our own protection disclosed. And I would ask for a Roll Call on Enactment.

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

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

Senator BERUBE: Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to first say that this is a unanimous Committee Report, and it was amended to address some of the concerns of those members in the Committee who were a little apprehensive at changing the Bill.

The changes are not that great. I think that they make sense. For instance, most anyone using a credit card would not generally use it for campaign purposes. You would probably buy some gasoline, or take someone out to dinner, but nothing of major consequence. Furthermore, I think most people have a certain cap, or a limit on their credit cards. As far as the educational loan, I don't think that an educational loan that you may take out for your young person at home to go to college, should be reportable income. If you go to the bank, and you make a loan for your business, obviously, that would not impact your revenues for your campaign. I suspect that a bank, particularly these days, would not give you money just to go in and say hello, "I need \$5,000", you need to put up a great deal more security than that.

But very importantly, what this Bill does this year, is to extend to the Executive Branch employees the same restrictions that exist for the Legislative Branch. Thank you.

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

Senator BOST: Thank you Mr. President. Ladies and Gentlemen of the Senate. May I pose a question through the Chair to the Senator from Androscoggin, Senator Berube. I am looking at L.D. 1037, and I fail to see reference to the Executive Branch in the language of the Bill. Could you clarify that for the Chamber, please?

**THE PRESIDENT PRO TEM:** The Senator from Penobscot, Senator Bost, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator BERUBE: Thank you Mr. President. Ladies and Gentlemen of the Senate. As I can remember very clearly, if you read Committee Amendment "A" (H-304), on the second page, Page II, under Section VII, it says, "Each Executive employee shall include", what

we do with that, is that you notice that some of the present language has been struck out, so that the language that has been struck out, now equalizes the Executive Branch employees with the Legislative Branch. If you further want to read a little below it, the Statement of Fact, it says that it modifies the title so that the changes in Financial Disclosure Laws apply to both the Legislative and Executive Branches of Government equally. Thank you.

**THE PRESIDENT PRO TEM:** The pending question before the Senate is **ENACTMENT**.

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

**ROLL CALL**

**YEAS:** Senators BALDACCI, BERUBE, BOST, BRANNIGAN, BRAWN, BUSTIN, CLARK, CLEVELAND, CONLEY, EMERSON, ESTES, ESTY, GAUVREAU, GILL, KANY, MATTHEWS, MCCORMICK, MILLS, PEARSON, THERIAULT, TITCOMB, TWITCHELL, VOSE, THE PRESIDENT PRO TEM, DENNIS L. DUTREMBLE

**NAYS:** Senators CAHILL, CARPENTER, COLLINS, FOSTER, GOULD, HOLLOWAY, LUDWIG, RICH, SUMMERS, WEBSTER

**ABSENT:** Senators None

**EXCUSED:** Senator PRAY

24 Senators having voted in the affirmative and 10 Senators having voted in the negative, with 1 Senator being excused, and No Senators being absent, this Bill was **PASSED TO BE ENACTED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

An Act to Implement the Recommendations of the Maine Commission on Legal Needs

H.P. 837 L.D. 1203  
(S "A" S-217 to C "A" H-287)

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

An Act Concerning Witnesses and the Integrity of the Judicial Process

H.P. 853 L.D. 1219  
(C "A" H-334)

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

An Act to Require the Holding of Hearings under the Maine Administrative Procedure Act

H.P. 882 L.D. 1273  
(C "A" H-322)

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

An Act Relating to Retirement Service Credits for Former Workers' Compensation Commissioners Who Became Judges before December 1, 1984

S.P. 553 L.D. 1457  
(S "A" S-208)

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

**Resolve**

Resolve, Authorizing the Sale of Certain Public Lands

H.P. 914 L.D. 1311  
(C "A" H-328)

Resolve, Authorizing the Conveyance of a Utility Easement to the City of Belfast

S.P. 659 L.D. 1735  
(C "A" S-173)

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

Resolve, to Create the Commission to Study the History, Status, Impact and Role of Independent Higher Education in Maine

S.P. 548 L.D. 1452  
(C "A" S-180)

On motion by Senator **CLARK** of Cumberland, Tabled  
1 Legislative Day, pending **FINAL PASSAGE**.

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**Emergency**

An Act to Allow Relicensing of an Existing  
Biomedical Waste Facility

S.P. 15 L.D. 3  
(C "A" S-162)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 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 Pro Tem, was presented by the Secretary to the Governor for his approval.

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**Emergency**

An Act Assuring Clean Waters in Maine

H.P. 161 L.D. 246  
(C "A" H-331)

On motion by Senator **CLARK** of Cumberland, Tabled  
1 Legislative Day, pending **ENACTMENT**.

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**Emergency**

An Act to Amend the Exemption of Certain  
Divisions from the Definition of Subdivision

H.P. 407 L.D. 590  
(C "A" H-257)

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

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**Emergency**

An Act to Address Budgetary Concerns of the Maine  
Athletic Commission and to Deregulate Certain Aspects  
of the Sport of Wrestling

H.P. 703 L.D. 1007  
(C "A" H-314; H "A"  
H-338)

On motion by Senator **CLARK** of Cumberland, Tabled  
1 Legislative Day, pending **ENACTMENT**.

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**Emergency**

An Act to Make Allocations for the Administrative  
Expenses of the Department of Finance, Bureau of  
Alcoholic Beverages for the Fiscal Years Ending June  
30, 1992 and June 30, 1993

H.P. 738 L.D. 1042

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

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**Emergency**

An Act Regarding Survivor Benefits in the Event  
of Divorce and Remarriage

S.P. 396 L.D. 1072  
(C "A" S-161)

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

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**Emergency**

An Act to Make Allocations for the Administrative  
Expenses of the Department of Finance, Bureau of  
Lottery, for the Fiscal Years Ending June 30, 1992  
and June 30, 1993

H.P. 761 L.D. 1095

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

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**Emergency**

An Act to Increase the Collection of Child  
Support Payments

H.P. 800 L.D. 1146  
(C "A" H-342)

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

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**Emergency**

An Act to Include Radiology in the Medical Liability Demonstration Project

S.P. 495 L.D. 1333  
(C "A" S-177)

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

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**Emergency**

An Act to Establish Municipal Cost Components for Services to be Rendered in Fiscal Year 1991-92

H.P. 933 L.D. 1353  
(C "A" H-344)

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

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**Emergency**

An Act to Amend the Charter of the Gray Water District

H.P. 976 L.D. 1419  
(H "A" H-419 to C "A" H-260)

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with no Senators having voted in the negative, and 28 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 Pro Tem, was presented by the Secretary to the Governor for his approval.

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**Emergency**

An Act to Revise the Charter of the South Berwick Water District

H.P. 1080 L.D. 1574  
(C "A" H-332)

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with no Senators having voted in the negative, and 28 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 Pro Tem, was presented by the Secretary to the Governor for his approval.

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**Emergency**

An Act Concerning Tax Anticipation Notes for Fiscal Year 1991-92 and the Maine Rainy Day Fund

H.P. 1301 L.D. 1882  
(H "A" H-377)

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

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**Emergency Resolve**

Resolve, to Create the Commission to Study a Long-term Disability Program for the Maine State Retirement System Members

S.P. 288 L.D. 770  
(C "A" S-171)

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending **FINAL PASSAGE**.

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**Emergency Resolve**

Resolve, Concerning Reauthorization of the \$12,000,000 Bond Issue for Sewer Treatment Facilities S.P. 586 L.D. 1539

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

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**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 President Pro Tem laid before the Senate the Tabled and Specially Assigned (6/4/91) matter:

Bill "An Act to Protect Consumers from Unfair and Deceptive Telephone Practices" H.P. 1134 L.D. 1659 (C "A" H-410)

Tabled - May 30, 1991, by Senator **CLARK** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED** in **NON-CONCURRENCE**

(In Senate, May 30, 1991, **READ A SECOND TIME.**)

(In House, May 23, 1991, Report **READ**. Bill and Accompanying Papers **REMITTED** to the Committee on **UTILITIES.**)

On motion by Senator **CLARK** of Cumberland, Tabled 1 Legislative Day, pending **PASSAGE TO BE ENGROSSED AS AMENDED** in **NON-CONCURRENCE**.

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The President Pro Tem laid before the Senate the Tabled and Specially Assigned (6/4/91) matter:

Bill "An Act to Extend the Commission to Study Maine's Oil Spill Clean-up Preparedness and to Improve Marine Oil Spill Prevention, Planning and Response" (Emergency)

H.P. 56 L.D. 77 (C "A" H-339)

Tabled - May 30, 1991, by Senator **CLARK** of Cumberland.

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

(In Senate, May 28, 1991, **READ A SECOND TIME.**)

(In House, May 22, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-339).**)

On motion by Senator **TITCOMB** of Cumberland, the Senate **SUSPENDED THE RULES**.

On further motion by the same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (H-339), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-266) to Committee Amendment "A" (H-339) **READ** and **ADOPTED**.

Committee Amendment "A" (H-339) as Amended by Senate Amendment "A" (S-266) thereto, **ADOPTED** in **NON-CONCURRENCE**.

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

Sent down for concurrence.

---

The President Pro Tem laid before the Senate the Tabled and Specially Assigned (6/4/91) matter:

Bill "An Act to Create a Semipermanent Semitrailer Registration" (Emergency) H.P. 765 L.D. 1099 (C "A" H-306)

Tabled - May 30, 1991, by Senator **CLARK** of Cumberland.

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

(In Senate, May 23, 1991, **READ A SECOND TIME.**)

(In House, May 20, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-306).**)

On motion by Senator **THERIAULT** of Aroostook, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (H-306), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-293) to Committee Amendment (H-306) **READ**.

**THE PRESIDENT PRO TEM:** The Chair recognizes that same Senator.



Senator **THERIAULT**: Thank you Mr. President. Ladies and Gentlemen of the Senate. This Amendment simply clarifies the original intend of the Committee. Thank you.

On further motion by same Senator, Senate Amendment "A" (S-293) to Committee Amendment (H-306) **ADOPTED**.

Committee Amendment "A" (H-306) as Amended by Senate Amendment "A" (S-293) thereto, **ADOPTED** in **NON-CONCURRENCE**.

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

Sent down for concurrence.

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The President Pro Tem laid before the Senate the Tabled and Specially Assigned (6/4/91) matter:

**Emergency**

An Act to Appropriate Funds for the Save Loring Committee

H.P. 1239 L.D. 1805

Tabled - May 30, 1991, by Senator **CLARK** of Cumberland.

Pending - **ENACTMENT**

(In Senate, May 16, 1991, **PASSED TO BE ENGROSSED**, in concurrence.)

(In House, May 22, 1991, **PASSED TO BE ENACTED**.)

Senator **THERIAULT** of Aroostook moved **ENACTMENT**.

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

Senator **PEARSON**: Thank you Mr. President. Ladies and Gentlemen of the Senate. It is not my intention to place this on the Appropriations Table.

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with 3 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 Pro Tem, was presented by the Secretary to the Governor for his approval.

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The President Pro Tem laid before the Senate the Tabled and Specially Assigned matter:

SENATE REPORT - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Place Certain Lands Recommended by the Special Committee on the New Capitol Area Master Plan under the Jurisdiction of the Capitol Planning Commission" S.P. 508 L.D. 1346

Report - Ought to Pass as Amended by Committee Amendment "A" (S-281).

Tabled - June 4, 1991, by Senator **BUSTIN** of Kennebec.

Pending - **ACCEPTANCE** of Committee Report

(In Senate, June 4, 1991, Report **READ**.)

On motion by Senator **CLARK** of Cumberland, Tabled 1 Legislative Day, pending **ACCEPTANCE** of Committee Report.

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The President Pro Tem laid before the Senate the Tabled and Specially Assigned matter:

SENATE REPORT - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Authorize Municipal Guarantees of Council of Government Obligations" (Emergency)

S.P. 660 L.D. 1736

Report - Ought to Pass as Amended by Committee Amendment "A" (S-269).

Tabled - June 4, 1991, by Senator **CLARK** of Cumberland.

Pending - **ACCEPTANCE** of Committee Report

(In Senate, June 4, 1991, Report **READ**.)

On motion by Senator **CLARK** of Cumberland, Tabled 1 Legislative Day, pending **ACCEPTANCE** of Committee Report.

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The President Pro Tem laid before the Senate the Tabled and Specially Assigned matter:

Resolve, to Extend the Schedule for Recodification of the Motor Vehicle Laws (Emergency) S.P. 673 L.D. 1787 (C "A" S-233)

Tabled - June 4, 1991, by Senator **DUTREMBLE** of York.

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

(In Senate, June 4, 1991, READ A SECOND TIME.)

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

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The President Pro Tem laid before the Senate the Tabled and Specially Assigned matter:

An Act to Limit Major Third-party Payor Status to Governmental Payors and Make Other Technical Changes in the Laws Affecting Hospital Financing  
S.P. 594 L.D. 1579  
(H "A" H-367)

Tabled - June 4, 1991, by Senator CONLEY of Cumberland.

Pending - **ENACTMENT**

(In Senate, May 22, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-367)**, in concurrence.)

(In House, May 30, 1991, **PASSED TO BE ENACTED.**)

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

Senator CONLEY: Thank you Mr. President. Ladies and Gentlemen of the Senate. I just want to apologize to the Body for trying to amend the Loring Bill with a Hospital Health Care Amendment, I was out of the Chamber and walked in, and I apologize for trying such a foolish act.

On motion by Senator CONLEY of Cumberland, the Senate **SUSPENDED THE RULES.**

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

On further motion by same Senator, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** House Amendment "A" (H-367), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-306) to House Amendment "A" (H-367) **READ and ADOPTED.**

House Amendment "A" (H-367) as Amended by Senate Amendment "A" (S-306) thereto, **ADOPTED** in **NON-CONCURRENCE.**

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

Sent down for concurrence.

The President Pro Tem laid before the Senate the Tabled and Specially Assigned matter:

SENATE REPORTS - from the Committee on **LABOR** on Bill "An Act to Raise the Family Allowance in Unemployment Compensation Benefits to a Reasonable Dependent Support Level"

S.P. 468 L.D. 1251

Majority - **Ought Not to Pass.**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-229)**

Tabled - June 4, 1991, by Senator CLARK of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, May 30, 1991, Reports **READ.**)

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending **ACCEPTANCE OF EITHER REPORT.**

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The President Pro Tem laid before the Senate the Tabled and Specially Assigned matter:

SENATE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Resolve, to Provide Additional Funding and an Extension of Time to Allow Phase 2 of the New Capitol Area Master Plan to Be Completed (Emergency)

S.P. 507 L.D. 1345

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-239)**

Minority - **Ought Not to Pass.**

Tabled - June 4, 1991, by Senator CLARK of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, May 30, 1991, Reports **READ.**)

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending **ACCEPTANCE OF EITHER REPORT.**

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The President Pro Tem laid before the Senate the Tabled and Specially Assigned matter:

Bill "An Act Concerning State Education Mandate Waivers"

H.P. 908 L.D. 1305  
(C "A" H-358)

Tabled - June 4, 1991, by Senator CLARK of Cumberland.

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

(In Senate, May 30, 1991, **READ A SECOND TIME.**)

(In House, May 23, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-358).**)

On motion by Senator ESTES of York, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (H-358), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-300) to Committee Amendment "A" (H-358) **READ.**

**THE PRESIDENT PRO TEM:** The Chair recognizes that same Senator.

Senator ESTES: Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to just briefly explain this amendment. This amendment takes care of a problem that we created with deferral of the June 1990-1991 subsidy payment back in early May when we passed the second Supplemental Budget of this session.

This amendment will require that the June 1991 subsidy payment to schools, and not the July 1991 payment, be made by July 5, 1991. The language in the amendment also adds that this does not commit the General Fund to more than twelve monthly payments in the fiscal year 1992-1993. This amendment is necessary in order to clarify that the June General Purpose Aid for local schools will be paid early in July. Local school units need this clarification in order to make the necessary plans for borrowing, and taking other actions necessary to accommodate the deferral of the June subsidy check through July. With this change being made, now school units in going out to bid for their 1991-1992 revenue anticipation borrowing, this will eliminate a great deal of fiscal uncertainty, which otherwise may result in higher borrowing costs, year end deficits, and the very worse possible case, an inability to pay outstanding revenue anticipation notes in a timely fashion. Thank you.

On further motion by same Senator, Senate Amendment "A" (S-300) to Committee Amendment "A" (H-358) **ADOPTED.**

**THE PRESIDENT PRO TEM:** The Chair recognizes that same Senator.

Senator ESTES: Thank you Mr. President. Ladies and Gentlemen of the Senate. Before we enact this legislation today, I would like to make some comments. I have held back making comments on this particular piece of legislation, but in light of the discussion that we had earlier on L.D. 66, proposing that a Constitutional Amendment be sent to the people for approval in regards to full subsidy payment of mandates, I think that this L.D. 1305, as amended, shows the flexibility that the Legislature can have

when we take into consideration, tough, fiscal times.

L.D. 1305 will relieve the pressure on financially strapped school districts to comply with state education reform mandates. While providing school boards with more reasonable time frames to construct local school budgets, this piece of legislation will establish a formal process by which school districts can request waivers, allowing them to delay implementation of certain state mandates. The Commissioner will be required to grant a waiver if a school district proves that implementation of the mandates would cause undo hardship, including undo fiscal hardship. This Bill will give school districts the flexibility they need during these tough, economic times. I believe that education reform will continue to move forward, but probably at a snails pace, and at a pace that local districts are more able to afford. In order to qualify for the waiver, school districts must document the hardship that is preventing them from meeting the mandate, and present a plan describing how those mandates for which the waivers have been requested, will be implemented in the future. The Commissioner of Education must act on the request within thirty days. By formalizing this process into law, we are making it more accessible and accountable to school districts in need. Local school officials will have a process that they can count on, they will be able to develop realistic expectations, and that is very important in this fiscal situation that we are facing. The Bill goes further to provide school districts an additional thirty days to pass a school budget, once the Legislature has finalized the level of education funding. Currently, school districts are required to approve a budget by June 30th. But, because of the ongoing State Budget problems and discussions, it would be very difficult for them to do so knowing that there was a great deal of uncertainty about what that level of funding would be. This Bill will provide local officials with not only a more reasonable amount of time to make sound decisions, but with the amendment that has been added, it will eliminate some of the accounting headaches that districts were concerned about. Thank you.

Committee Amendment "A" (H-358) as Amended by Senate Amendment "A" (S-300) thereto, **ADOPTED** in **NON-CONCURRENCE.**

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

Sent down for concurrence.

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

#### PAPERS FROM THE HOUSE

##### Joint Resolution

The Following Joint Resolution: H.P. 1338

**JOINT RESOLUTION RECOGNIZING THE 100TH ANNIVERSARY OF THE BATH HIGH SCHOOL ALUMNI ASSOCIATION**

WHEREAS, Morse High School in Bath, Maine has a longstanding reputation for excellence in secondary education; and

WHEREAS, Morse High School is recognized throughout Maine for its leadership role in academics, athletics and other extracurricular activities; and

WHEREAS, the Bath High School Alumni Association is celebrating its 100th anniversary this June; and

WHEREAS, the alumni association is believed to be among the largest and most active in the United States; and

WHEREAS, Morse High School alumni have distinguished themselves in medicine, law, education, government and many other areas of interest in addition to ranking among the world's finest shipbuilders; and

WHEREAS, the alumni association has provided hundreds of thousands of dollars in scholarship aid to graduates and hundreds of memorable gifts to the school over the decades; and

WHEREAS, the Bath High School Alumni Association is believed to be the oldest in the United States that holds one large high school reunion each year; 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 100th anniversary of the Bath High School Alumni Association and join in the celebration of its century of service to the graduates of Morse High School and to the school; and be it further

RESOLVED: That suitable copies of this joint resolution, duly authenticated by the Secretary of State, be sent forthwith to the officers of the Bath High School Alumni Association.

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

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

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

**PAPERS FROM THE HOUSE**

**House Papers**

Bill "An Act Concerning the Low-income Home Energy Assistance Program" (Emergency)  
H.P. 1333 L.D. 1924

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

Which was referred to the Committee on **HOUSING AND ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**, in concurrence.

Bill "An Act Concerning Security Deposits"  
H.P. 1332 L.D. 1923

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

Which was, under suspension of the Rules, **READ ONCE**, without reference to a Committee, in **NON-CONCURRENCE**.

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

Bill "An Act to Amend the Berwick Sewer District Charter"  
H.P. 1339 L.D. 1931

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

(See Action Later Today)

**ORDERS OF THE DAY**

The President Pro Tem laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act to Clarify Board Membership Qualifications and Make Necessary Fee Adjustments to Meet Board and Departmental Operating Expenses for the State Board of Licensure for Professional Foresters" (Emergency)

H.P. 919 L.D. 1316  
(C "A" H-312)

Tabled - June 5, 1991, by Senator **CLARK** of Cumberland

Pending - **FURTHER CONSIDERATION**

(In Senate, May 23, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-312)**, in concurrence.)

(In House, June 4, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-312) AS AMENDED BY HOUSE AMENDMENT "A" (H-376)** thereto, in **NON-CONCURRENCE.**)

On motion by Senator **BALDACCI** of Penobscot, the Senate **RECEDED** from **PASSAGE TO BE ENGROSSED AS AMENDED.**

On further motion by same Senator, the Senate **RECEDED** from **ADOPTION** of Committee Amendment "A" (H-312).

House Amendment "A" (H-376) to Committee Amendment "A" (H-312) **READ.**

On further motion by same Senator, House Amendment "A" (H-376) to Committee Amendment "A" (H-312) **INDEFINITELY POSTPONED** in **NON-CONCURRENCE.**

On further motion by same Senator, Senate Amendment "A" (S-221) to Committee Amendment "A" (H-312) **READ.**

**THE PRESIDENT PRO TEM:** The Chair recognizes that same Senator.

Senator **BALDACCI:** Thank you Mr. President. Ladies and Gentlemen of the Senate. It is a licensing and renewal issue, and there was a technical problem with it, and it has been adjusted, and had to be corrected. Thank you.

On further motion by same Senator, Senate Amendment "A" (S-221) to Committee Amendment "A" (H-312) **ADOPTED.**

Committee Amendment "A" (H-312) as Amended by Senate Amendment "A" (S-221) thereto, **ADOPTED** in **NON-CONCURRENCE.**

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

Sent down for concurrence.

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On motion by Senator **CLEVELAND** of Androscoggin, the Senate **RECONSIDERED** its action whereby it **REFERRED** to the Committee on **UTILITIES:**

Bill "An Act to Amend the Berwick Sewer District Charter"  
H.P. 1339 L.D. 1931

Under suspension of the Rules, on motion by Senator **CLEVELAND** of Androscoggin, **READ TWICE** and **PASSED TO BE ENGROSSED,** and **ORDERED PRINTED,** without reference to a Committee, in **NON-CONCURRENCE.**

Sent down for concurrence.

## ORDERS OF THE DAY

On motion by Senator **CLARK** of Cumberland, the Senate removed from the Tabled and Later Today Assigned matter:

Bill "An Act to Prescribe the Duties and Liabilities of Ice-skating Rink Operators and Persons Who Use Ice-skating Rinks"

H.P. 1217 L.D. 1775  
(H "A" H-285)

Tabled - June 5, 1991, by Senator **CLARK** of Cumberland

Pending - **FURTHER CONSIDERATION**

(In Senate, May 22, 1991, **PASSED TO BE ENACTED,** in concurrence.)

(**RECALLED** from the Governor's Desk pursuant to Joint Order H.P. 1323, in concurrence.)

(In House, June 4, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "A" (H-285) AND "B" (H-526)** in **NON-CONCURRENCE.**)

On further motion by same Senator, the Senate **RECEDED** and **CONCURRED.**

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On motion by Senator **CLARK** of Cumberland, the Senate removed from the Tabled and Later Today Assigned matter:

Bill "An Act to Relocate Maine Emergency Medical Services from the Department of Human Services to the Department of Public Safety Pursuant to the Maine Sunset Act"

S.P. 709 L.D. 1890

Tabled - June 5, 1991, by Senator **CLARK** of Cumberland

Pending - **FURTHER CONSIDERATION**

(Committee on **AUDIT AND PROGRAM REVIEW** suggested and **ORDERED PRINTED.**)

(In Senate, May 22, 1991, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED,** without reference to a Committee.)

(In House, June 4, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-540)** in **NON-CONCURRENCE.**)

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

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

Bill "An Act to Amend the Unfair Trade Practices Act to Allow Consumers to Recover Damages"

H.P. 1057 L.D. 1546

Report - Ought to Pass As Amended by Committee Amendment "A" (H-447)

Tabled - June 5, 1991, by Senator CLARK of Cumberland

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-447)**, in concurrence

(In Senate, June 5, 1991, **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED**. Committee Amendment "A" (H-447) **READ**.)

(In House, June 4, 1991, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-447)**.)

On motion by Senator **BALDACCI** of Penobscot, Tabled 1 Legislative Day, pending **ADOPTION OF COMMITTEE AMENDMENT "A" (H-447)**, in concurrence.

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

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

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On motion by Senator **CLARK** of Cumberland, the Senate removed from the Unassigned Tabled the following:

SENATE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Amend the Laws Regarding Nonresident Income Taxes"

S.P. 31 L.D. 45

Majority - Ought Not to Pass

Minority - Ought to Pass

Tabled - March 13, 1991, by Senator **CLARK** of Cumberland.

Pending - Motion of Senator **BOST** of Penobscot to **ACCEPT** Majority **OUGHT NOT TO PASS** Report

(In Senate, March 13, 1991, Reports **READ**.)

On motion by Senator **BOST** of Penobscot, the Majority **OUGHT NOT TO PASS** Report was **ACCEPTED**.

Sent down for concurrence.

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On motion by Senator **CLARK** of Cumberland, the Senate removed from the Unassigned Table the following:

Bill "An Act to Provide Adequate Skilled Professionals and Employee Protections in the Provision of Mental Health and Mental Retardation Services during a Period of Closure and Reductions in Capacity and a Transition to a Community Care-based Services System"

S.P. 482 L.D. 1284

Tabled - March 25, 1991, by Senator **CLARK** of Cumberland.

Pending - **REFERENCE**

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

On motion by Senator **CLARK** of Cumberland, Bill and Accompanying Papers **INDEFINITELY POSTPONED**.

Sent down for concurrence.

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

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Off Record Remarks

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On motion by Senator **MATTHEWS** of Kennebec, **ADJOURNED** until Thursday, June 6, 1991, at 9:00 in the morning.