

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Fifteenth Legislature
OF THE
State Of Maine

VOLUME VI

SECOND REGULAR SESSION

House of Representatives
March 10, 1992 to March 31, 1992

Senate
January 8, 1992 to March 9, 1992

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

In Senate Chamber

Tuesday

January 28, 1992

Senate called to Order by the President.

Prayer by Pastor Ronald McLaughlin of the Getchell Street United Baptist Church in Waterville.

PASTOR RONALD MCLAUGHLIN: Let us pray. Gracious Lord as we partake in the business of government, as we walk in our lives, as we examine the things that are best for the people of the State of Maine, may you be present. May you be present as we look at those things that are meaningful and look at those things that are best. We pray for your guidance, Lord. We pray your wisdom upon each man, upon each woman here this afternoon that what we do may honor not only the people but you also. We pray this in your name Lord. Amen.

Reading of the Journal of Thursday, January 23, 1992.

Off Record Remarks

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

Bill "An Act to Ensure Adequate Resources for Energy Assistance Programs for Low-income Households" (Emergency)

S.P. 319 L.D. 857

In Senate, July 16, 1991, **RECOMMITTED** to the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS**.

In Senate, January 23, 1992, referred to the Committee on **UTILITIES**.

Comes from the House referred to the Committee on **HUMAN RESOURCES** in **NON-CONCURRENCE**.

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

COMMUNICATIONS

The Following Communication:

**ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON AGRICULTURE**

January 22, 1992

The Honorable Charles P. Pray
President of the Senate of Maine
State House
Augusta, Maine 04333
Dear Mr. President:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 115th Maine Legislature, the Joint Standing Committee on Agriculture has had under consideration the nomination of William H. Mook of Damariscotta, for reappointment to the Commission on Biotechnology and Genetic Engineering.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS: Senators 2
Representatives 9
NAYS: 0
ABSENT: 2 Sen. Twitchell of Oxford, Rep. Spear of Nobleboro

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of William H. Mook of Damariscotta, for reappointment to the Commission on Biotechnology and Genetic Engineering be confirmed.

Sincerely,

S/Senator R. Donald Twitchell S/Rep. Robert J. Tardy
Senate Chair House Chair

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

THE PRESIDENT: The Joint Standing Committee on Agriculture has recommended the nomination of William H. Mook of Damariscotta be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on Agriculture be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 115th Legislature, the vote will be taken by the Yeas and Nays.

A vote of Yes will be in favor of overriding the recommendation of the Committee.

A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators None
NAYS: Senators BALDACCI, BERUBE, BOST, BRANNIGAN, BRAWN, BUSTIN, CAHILL, CARPENTER, CLARK, CLEVELAND, COLLINS, CONLEY, DUTREMBLE, EMERSON, ESTES, ESTY, FOSTER, GAUVREAU, HOLLOWAY, KANY, LUDWIG, MCCORMICK, MILLS, PEARSON, RICH, SUMMERS, THERIAULT, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators GILL, GOULD, MATTHEWS, TITCOMB
No Senators having voted in the affirmative and 31 Senators having voted in the negative, with 4 Senators being absent, and none being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of William H. Mook, was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

The Following Communication:

**ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON AGRICULTURE**

January 22, 1992

The Honorable Charles P. Pray
President of the Senate of Maine
State House
Augusta, Maine 04333
Dear Mr. President:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 115th Maine Legislature, the Joint Standing Committee on Agriculture has had under consideration the nomination of Jeffery O. Smith of Presque Isle, for appointment to the Board of Pesticides Control.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS: Senators 2
Representatives 9
NAYS: 0
ABSENT: 2 Sen. Twitchell of Oxford, Rep. Spear of Nobleboro

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Jeffery O. Smith of Presque Isle, for appointment to the Board of Pesticides Control be confirmed.

Sincerely,

S/Sen R. Donald Twitchell S/Rep. Robert J. Tardy
Senate Chair House Chair

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

THE PRESIDENT: The Joint Standing Committee on Agriculture has recommended the nomination of Jeffery O. Smith of Presque Isle be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on Agriculture be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 115th Legislature, the vote will be taken by the Yeas and Nays.

A vote of Yes will be in favor of overriding the recommendation of the Committee.

A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?
The Doorkeepers will secure the Chamber.
The Secretary will call the Roll.

ROLL CALL

YEAS: Senators None
NAYS: Senators BALDACCI, BERUBE, BOST, BRANNIGAN, BRAWN, BUSTIN, CAHILL, CARPENTER, CLARK, CLEVELAND, COLLINS, CONLEY, DUTREMBLE, EMERSON, ESTES, ESTY, FOSTER, GAUVREAU, GILL, HOLLOWAY, KANY, LUDWIG, MCCORMICK, MILLS, PEARSON, RICH, SUMMERS, THERIAULT, TITCOMB, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators GOULD, MATTHEWS

No Senators having voted in the affirmative and 33 Senators having voted in the negative, with 2 Senators being absent, and none being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of Jeffery O. Smith, was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

SENATE PAPERS

Resolve, to Provide a Special Exemption to the Maine State Prison Advocate for Service Retirement Benefits.

S.P. 871 L.D. 2226

Presented by Senator **WEBSTER** of Franklin
Cosponsored by Representative **CARROLL** Of Gray,
Representative **JALBERT** of Lisbon and
Representative **OTT** of York
Submitted by the Department of Corrections

pursuant to Joint Rule 24.
Bill "An Act to Clarify Earnable Compensation for Retirement Purposes"

S.P. 872 L.D. 2227

Presented by Senator **MCCORMICK** of Kennebec
Cosponsored by Representative **JALBERT** of Lisbon,
Senator **CLARK** of Cumberland and Representative
WENTWORTH of Arundel

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Which were referred to the Committee on **AGING, RETIREMENT & VETERANS** and **ORDERED PRINTED**.
Sent down for concurrence.

Bill "An Act to Preserve East-west Railroads"
S.P. 873 L.D. 2228

Presented by President **PRAY** of Penobscot
Cosponsored by Representative **GOULD** of Greenville,
Representative **MERRILL** of Dover-Foxcroft and Representative **HUSSEY** of Milo

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Which was referred to the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** and **ORDERED PRINTED**.
Sent down for concurrence.

Bill "An Act to Provide for the 1992 and 1993 Allocations of the State Ceiling on Private Activity Bonds" (Emergency)

S.P. 874 L.D. 2235

Presented by Senator **CLARK** of Cumberland
Cosponsored by Representative **GWADOSKY** of Fairfield,
Senator **FOSTER** of Hancock and Representative **LEBOWITZ** of Bangor

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.
Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** suggested and **ORDERED PRINTED**.

On motion by Senator **CLARK** of Cumberland,
REFERRED to the Committee on **HOUSING AND ECONOMIC DEVELOPMENT**.
Sent down for concurrence.

Bill "An Act to Facilitate Self-insurance and Group Self-insurance under the Maine Workers' Compensation Act"

S.P. 877 L.D. 2238

Presented by Senator **CONLEY** of Cumberland
Cosponsored by Senator **KANY** of Kennebec and Representative **MITCHELL** of Vassalboro

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Which was referred to the Committee on **BANKING & INSURANCE** and **ORDERED PRINTED**.
Sent down for concurrence.

Bill "An Act Concerning the Degree Granting Authority of Husson College"

S.P. 875 L.D. 2236

Presented by Senator **CLARK** of Cumberland
Cosponsored by Representative **LEBOWITZ** of Bangor,
Representative **MORRISON** of Bangor and Senator **BALDACCI** of Penobscot
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

Which was referred to the Committee on **EDUCATION** and **ORDERED PRINTED**.
Sent down for concurrence.

Which was referred to the Committee on **UTILITIES** and **ORDERED PRINTED**.
Sent down for concurrence.

Bill "An Act to Implement a Comprehensive Ambient Toxics Monitoring Program"

S.P. 876 L.D. 2237

Presented by Senator **TITCOMB** of Cumberland
Cosponsored by Representative **MARSH** of West Gardiner and Representative **LUTHER** of Mexico
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.

Bill "An Act Dealing with the Powers of the Maine Low-level Radioactive Waste Authority"

S.P. 880 L.D. 2252

Presented by Senator **WEBSTER** of Franklin
Cosponsored by Representative **POWERS** of Coplin Plantation and Representative **BAILEY** of Farmington
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Which were referred to the Committee on **ENERGY & NATURAL RESOURCES** and **ORDERED PRINTED**.
Sent down for concurrence.

Bill "An Act to Extend Liability Insurance to Specialized Children's Homes"

S.P. 878 L.D. 2250

Presented by Senator **SUMMERS** of Cumberland
Cosponsored by Senator **BUSTIN** of Kennebec and Representative **MARSH** of West Gardiner
Submitted by the Department of Human Services pursuant to Joint Rule 24.

Bill "An Act to Facilitate Cooperative Agreements among Maine Hospitals"

S.P. 882 L.D. 2254

Presented by Senator **CLARK** of Cumberland
Cosponsored by Representative **MANNING** of Portland and Senator **CONLEY** of Cumberland
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Which were referred to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED**.
Sent down for concurrence.

Bill "An Act to Clarify the Enrollment Period for the 5-year Medical Liability Demonstration Project" (Emergency)

S.P. 879 L.D. 2251

Presented by Senator **GAUVREAU** of Androscoggin
Cosponsored by Representative **PARADIS** of Augusta and Representative **HASTINGS** of Fryeburg
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

Which was referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**.
Sent down for concurrence.

Bill "An Act to Provide for the Annual Apportionment of the Kennebec Sanitary Treatment District's Operation Costs on a 3-year Average"

S.P. 881 L.D. 2253

Presented by Senator **KANY** of Kennebec
Cosponsored by Representative **GWADOSKY** of Fairfield
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.

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 **AGRICULTURE** Bill "An Act Amending the Potato Branding Laws"

H.P. 73 L.D. 101

From the Committee on **BANKING & INSURANCE** Bill "An Act to Establish a Consumer Advocate for Insurance"

H.P. 596 L.D. 847

From the Committee on **BANKING & INSURANCE RESOLUTION**, Proposing an Amendment to the Constitution of Maine to Limit the Expenditure of the Funds of a Public Mutual Insurance Company Created by the State to Provide Workers' Compensation Insurance to Employers in this State

H.P. 1378 L.D. 1966

From the Committee on **ENERGY & NATURAL RESOURCES** Bill "An Act to Amend the Fire Permit Laws"

H.P. 1460 L.D. 2072

From the Committee on **ENERGY & NATURAL RESOURCES** Bill "An Act Exempting Zoning Changes Related to the Implementation of an Approved Growth Management Plan and Shoreland Zoning from Certain Notice Requirements" (Emergency)

H.P. 1474 L.D. 2086

From the Committee on **LABOR** Bill "An Act to Extend the Jurisdiction of the Maine Labor Relations Board to Public Employees Who Have Been Employed Less Than 6 Months"

H.P. 852 L.D. 1218

From the Committee on **LABOR** Bill "An Act to Protect the Integrity and Enforceability of Collective Bargaining Agreements"

H.P. 957 L.D. 1384

From the Committee on **LABOR** Bill "An Act to Protect the Health and Safety of Public Employees"

H.P. 1180 L.D. 1723

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 **ENERGY & NATURAL RESOURCES** Bill "An Act to Promote the Beneficial Use of Industrial Residuals"

H.P. 1468 L.D. 2080

Ought to Pass As Amended

The Committee on **HUMAN RESOURCES** on Bill "An Act to Establish a Special Housing Allowance for the Aid to Families with Dependent Children Program" (Emergency)

H.P. 977 L.D. 1420

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-864)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-864)**.

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

concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-864) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **BANKING & INSURANCE** on Bill "An Act to Include Smokers in Rehabilitation Treatment Insurance Coverage"

H.P. 362 L.D. 516

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

Signed:

Senators:

KANY of Kennebec
BRAWN of Knox

Representatives:

MITCHELL of Vassalboro
ERWIN of Rumford
JOSEPH of Waterville
GARLAND of Bangor
CARLETON of Wells
HASTINGS of Fryeburg
PINEAU of Jay
RAND of Portland
TRACY of Rome

The Minority of the same Committee on the same subject reported that the same **Ought to Pass**.

Signed:

Senator:

MCCORMICK of Kennebec

Representative:

KETOVER of Portland

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

Which Reports were **READ**.

On motion by Senator **WEBSTER** of Franklin, the Majority **UGHT NOT TO PASS** Report was **ACCEPTED**, in concurrence.

Senate

Ought Not to Pass

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

Reported by Senator **RICH** for the Committee on **AUDIT & PROGRAM REVIEW** Bill "An Act to Require Gender Impact Analysis as Part of All Audit and Program Reviews"

S.P. 626 L.D. 1630

Reported by Senator **RICH** for the Committee on **AUDIT & PROGRAM REVIEW** Bill "An Act to Require the Preparation of Impact Statements"

S.P. 695 L.D. 1860

Reported by Senator **MCCORMICK** for the Committee on **BANKING & INSURANCE** Resolve, to Provide Group Insurance Coverage to Maine's Foster Parents

S.P. 92 L.D. 177

Reported by Senator **GAUVREAU** for the Committee on **JUDICIARY** Bill "An Act to Amend Sentences of Imprisonment for Class A Crimes Other Than Murder"

S.P. 421 L.D. 1133

Reported by Senator **GAUVREAU** for the Committee on **JUDICIARY** Bill "An Act to Clarify the Role of Guardians Ad Litem and Visitors in Guardianship and Conservatorship Cases"

S.P. 704 L.D. 1875

Reported by Senator **COLLINS** for the Committee on **TAXATION RESOLUTION**, Proposing an Amendment to the Constitution of Maine to Provide Compensation when State Actions Diminish Property Values

S.P. 664 L.D. 1740

Leave to Withdraw

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

Reported by Senator **GAUVREAU** for the Committee on **JUDICIARY** Bill "An Act to Ensure Prompt Referral of Alleged Juvenile Offenders"

S.P. 822 L.D. 2118

Ought to Pass As Amended

Senator **MCCORMICK** for the Committee on **AGING, RETIREMENT & VETERANS** on Bill "An Act to Amend the Disability Laws Applicable to Members of the Maine Judicial Retirement System"

S.P. 742 L.D. 1937

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-529)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-529) **READ** and **ADOPTED**.

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

Senator **BERUBE** for the Committee on **STATE & LOCAL GOVERNMENT** on Resolve, That the Reporting Deadline for the Commission on Comprehensive Energy Planning Be Extended (Emergency)

S.P. 794 L.D. 1993

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-530)**.

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

The Resolve **READ ONCE**.

Committee Amendment "A" (S-530) **READ** and **ADOPTED**.

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

SECOND READERS

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

Senate As Amended

Bill "An Act to Require Certain Disclosures in Adoptions and to Provide Additional Protective Services for Children"

S.P. 656 L.D. 1732

(C "A" S-526)

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

Sent down for concurrence.

Senate at Ease

Senate called to order by the President.

ORDERS OF THE DAY

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

SENATE REPORTS - from the Committee on **TRANSPORTATION** on Bill "An Act to Modify Weight Limits for Farm Trucks"

S.P. 189 L.D. 498

Majority - Ought to Pass as Amended by Committee Amendment "A" (S-525)

Minority - Ought Not to Pass

Tabled - January 23, 1992 by Senator DUTREMBLE of York.

Pending - ACCEPTANCE OF EITHER REPORT

(In Senate, January 23, 1992, Reports READ.)

Senator TWITCHELL of Oxford moved to ACCEPT the Minority OUGHT NOT TO PASS Report.

THE PRESIDENT: The Chair recognizes that same Senator.

SENATOR TWITCHELL: Thank you Mr. President. Ladies and Gentlemen of the Senate. As you probably know, I signed out on the Minority Ought to Pass Report and I made a mistake, which I very seldom have done in the 20 years I have been here. This Bill was a carry over Bill. I wasn't on the Committee last session. I didn't go to the hearing or the work session last session because I wasn't on the committee. This was a carry over Bill and when I was put back on the Transportation Committee, we took the Bill up about two weeks ago. Like the good guy I am, I signed on with the Majority of the Committee not knowing what I had done. I apologize and I move for the Minority Ought Not to Pass Report.

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

Senator THERIAULT: Thank you Mr. President. Ladies and Gentlemen of the Senate. I request a Division and I urge to move against the motion so we can accept the Majority Ought to Pass Report.

This Bill is designed to correct and inequity in the law. I don't think that we as Legislators should take that very lightly when we make special exceptions for one over the other, especially when they are essentially in the same endeavor. Both farm trucks and logging trucks are by law required to register for the same weight because of their configuration and because of the number of axles they have. Both pay the same amount of registration fee, both have to meet the same inspection standards, both follow the same rules, except a logging truck is allowed to haul 10,000 more pounds per load.

It is very difficult for my farmers to understand why this exists under the law and I don't blame them. I can not explain to them why it is that way. All I know is that if you are going down the road with a potato truck, having the same amount of weight as a logging truck, you are liable to be brought to court and made to pay a fine. To me, this is not fair and this is the reason this Bill is before this body.

Again, I think we should be very concerned about what is fair. What is fair for one should be fair for the other and maybe in the final analysis if this Bill was taken to court for final determination that it might be found to be unconstitutional. I urge you to vote against this motion so that we could accept the Majority Ought to Pass Report.

Senator THERIAULT of Aroostook requested a Division.

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

Senator TWITCHELL: Thank you Mr. President. Ladies and Gentlemen of the Senate. Right now you are allowed 54,000 pounds. What this Bill will do is add on another 10,000 pounds that will be damaging our highways which we can't afford to keep repairing. The small towns and cities will have to come up with the money to fix the roads. If we let

this Bill in, we have another coming down in two or three days that has to do with Sand and Gravel and they want to do the same thing. If you let this Bill in, it will be cement products, solid waste products, it will be a whole list of things that will be allowed in here if we let this Bill in. I hope you stick with my motion. Thank you.

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

Senator TITCOMB: Thank you Mr. President. Ladies and Gentlemen of the Senate. I stand to support the good Senator from Oxford, Senator Twitchell. I think there are very good reasons why he has asked to move the Minority Report. It is very important for members of the Senate to recognize that when the original exemption to the standard weight rule was given, it was given to logging trucks. One of the primary reasons was there was a pulp loader on the truck that was a considerable amount of weight that would have to be included in the total. That pulp loader is not product, it is equipment. It is very important also to know that the Department of Transportation has been searching for means of developing a different type of transportation unit for logging materials, because it is doing damage to the roads. It is hopeful, at some time, there will be alternative types of vehicles that will not be dependent on this amount of weight.

If we begin to make exceptions to what has been considered a standard safe weight for our roads, as the good Senator from Oxford demonstrated, there may be no end to this. We are just going to keep adding on and on to vehicles. We are not paying our towns the money they need to fix their roads. If anyone in this Chamber has not gone on a back road in a local community in the recent past, I suggest you do so. The towns do not have the money to maintain their roads as they now stand. To get a measure of impact on communities, there are 612 bridges on town ways and towns have responsibility for capital improvements on those bridges. Already the back log of needs on these bridges is \$105 million and the towns are responsible for \$30 million of that. We start adding on weight to these trucks that are slamming their way across our roads, and as the good Senator from Oxford has stated, next week it's going to be the Sand and Gravel trucks, and who knows after that. At the same time we are announcing to the press that we are going to try to avoid adding costs to our communities, I think it is a bit facetious. Let's not talk out of both sides of our mouths. Let's not impact our local municipalities in a disguised Bill and granted it would no doubt help the farmers. It will not help the property taxes one bit, yours, mine, or our constituents.

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

Senator COLLINS: Thank you Mr. President. Ladies and Gentlemen of the Senate. I think the proposal before us does in fact merit some consideration. I think opponents to the idea of making this change in the law have grossly exaggerated damage that might occur to Maine roads.

As I understand it, there are probably less than 40 vehicles in the state and mostly in Northern Maine and mostly potato hauling trucks among the farm registration that would qualify and have some benefit from this Bill. These trucks are used only and I repeat only to haul potatoes from the farmers potato storage facility to the processing plants. This has

nothing to do with the big tractor trailers that come down the highways loaded with potatoes to go out of state. This is strictly between the farm and the processing plant. It seems to me, where we have already agreed to permit those in the woods industry to haul greater weights, I would remind you those trucks haul throughout the state and haul through all types of roads, there is some difference. My good friend the Senator from Oxford, Senator Twitchell has suggested there is other legislation coming down the pike that would also add to the harm and damage. We are not, today, looking at other Bills. We are looking at this Bill, looking at a situation that will prevail only a certain number of months during the year. Those of you that are familiar with the potato processing plants, know the farmers haul to those plants mostly during the months of November thru March when the roads are frozen. It is not when frost is coming up and they can best withstand what additional weight might occur. I hope you will not be taken in by the suggestion that this is going to ruin the roads of Maine. It is a piece of legislation designed to provide some equity. It is something we permit other haulers to do with other commodities at the present time to a greater extent than this particular legislation suggest. I would urge you to vote against the pending motion so you may vote for the Majority Report and it is incidentally interesting to note, the Majority Report was a 9 to 4 Report in favor of permitting this thing to happen.

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

Senator **TITCOMB:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would concur that there are approximately 40 trucks that would fall in this category, but I will reiterate the fact there is another Bill coming that deals with Sand and Gravel and if this exception is given on both those Bills, we're looking at 451 trucks that will be given this extension of weight. I think that is a significant impact on our roads and a significant dollar figure that we are going to be handing back to our towns. If I had a sure guarantee, this instant, that the only one of these Bills that would pass would be the one on farming, I wouldn't be half as concerned. I think this just opens a very dangerous door of cost to our local communities.

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

Senator **THERIAULT:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I can't believe that we as Senators in this Body, are not concerned about consistency and fairness in the law. I can't believe my ears what I am hearing today. Talking about straight faced, I don't know how someone can, with a straight face say that there is a difference between the weight of a pound of potatoes and a pound of wood. I just can't believe that. No wonder the people of this state look at this body with a jaundice look in their eye at some of the things we do. Thank you.

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

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I am not one who particularly has a great deal of pericial interest in this issue. It is an issue that I could vote on either side, however, I am also concerned about the roads and the money spent on the roads. I am also

concerned with fairness. The good Senator from Aroostook, Senator Theriault makes a good point. I do want to ask him this question. Is it a fact the difference in weight is because of the pulp loader? Second, if we are talking about a question of fairness, are we in fact opening the door for all other possible truckers in the future to come in with the same demands, and if this is really a question of fairness are we going to have to vote for that now? Maybe what we are doing is looking at it the wrong way. If the pulp loader is not the reason these trucks have the exception, are we looking at it, in fact, wrongly and maybe we should be addressing this by bringing the 6000 pounds down instead of bringing everyone up.

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

Senator **THERIAULT:** Thank you Mr. President. Ladies and Gentlemen of the Senate. In answer to the question in reference to the pulp loader. I have been a member of the Transportation Committee for a long time. As far as I know this pulp loader story is a fairy tale, as far as I can remember. If we do use this criteria for determining how much weight a truck can carry, I can counter with the fact that the body required on a potato truck is made of very heavy metal and I am sure weighs more than the loader we are talking about right now. I don't believe that is a valid argument at all. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **TWITCHELL** of Oxford to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report.

A Division has been requested.

Will all those in favor of the motion by Senator **TWITCHELL** of Oxford to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, please rise in their places and remain standing until counted.

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

24 Senators having voted in the affirmative and 6 Senators having voted in the negative, the motion by Senator **TWITCHELL** of Oxford to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report **PREVAILS**.

Sent down for concurrence.

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

Resolve, to Revise the Charter of the Van Buren Hospital District (Emergency)

S.P. 858 L.D. 2182

Tabled - January 23, 1992 by Senator **DUTREMBLE** of York.

Pending - **REFERENCE**

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

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

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

SENATE REPORTS - from the Committee on **STATE & LOCAL GOVERNMENT** on Bill "An Act to Create a State Municipalities Investment Pool"

S.P. 516 L.D. 1377

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-52B)**

Minority - **Ought Not to Pass**

Tabled - January 23, 1992 by Senator **DUTREMBLE** of York.

Pending - ACCEPTANCE OF EITHER REPORT

(In Senate, January 23, 1992, Reports READ.)

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

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

Senator EMERSON: Thank you Mr. President. Ladies and Gentlemen of the Senate. I urge you to vote against this motion.

Senator EMERSON of Penobscot requested a Division.

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

Senator COLLINS: Thank you Mr. President. Ladies and Gentlemen of the Senate. I suspect that this is one of those Bills that has some merits and some demerits. I know that those who look in favor on it can make an argument that suggest that this is a desirable thing for municipalities. I have some concerns with that particular viewpoint and I'd like to express them.

It seems to me that as I recall Municipalities, and I have been a Municipal Officer, we used to borrow temporary money from commercial banks and we used to borrow the entire amount we might need early in the year and we would borrow it on a competitive basis from the bank that submitted the lowest bid. When they did that, most of the banks that bid on the money did it with the expectation that it was going to be deposited back into the banking system in that community. It seems to me that worked rather well. The banks tended to compete vigorously, one with the other and those municipalities in turn would deposit part of that money to their demand deposit account, the checking account and the rest into saving instruments that were offered for various time periods. The expectation of this type of endeavor is municipalities can earn more money by using the vehicle of the Maine Bond Bank who would effectively pool together the funds from various communities and then act as broker for the municipalities and invest the money in "higher earning instruments."

There are a couple of things that could be wrong with this premise. One, it seems to me that municipalities at the present time if they have funds in substantial amounts, can currently choose to do that. They can buy treasury Bills or certain other instruments and they can buy them probably at the same price as they can be bought anywhere else. The size of it isn't particularly going to make any difference. That option is currently available to them. I guess the thing I am most concerned about is if Municipality elected to use this vehicle, essentially they would be removing those funds from local market where they could have been reloaned for investments in that area. I am advised that theoretically this could take 100 million dollars or so out of the Maine economy. That is my concern. I don't think the Bond Bank is going to do anything wrong with it, I don't think they are going to make any extra money. I think their going to have to have a fee for performing certain duties, the Brokerage House in New York is going to have a fee, and there are going to be costs associated with this type of investment. It may be that we can pass this and see what happens, but I've noted in recent years, that the Bond Bank continually seeks out additional financial duties for themselves. This appears to be the latest one and I wonder if they are not going to turn into a full scale commercial bank pretty soon.

The intent when the Bond Bank was first formulated was to utilize it for capital loans needed by communities, bond issues that would be put together, packaged and sold. I think it has worked very well. It has done that, but I really don't see their continual desire to take on additional things and now to move into the short term market to act as a broker. I think I will vote against this. I don't really think we are going to accomplish a great deal by passing this type of legislation. Those are my concerns, I share them for what they are worth, and I really am worried about taking vast amounts of potentially investment money out of the state. It seems to me that this could work in that fashion. Thank you Mr. President.

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

Senator BERUBE: Thank you Mr. President. Ladies and Gentlemen of the Senate. The arguments we just heard were all valid. When I posed those same arguments, at the time of the work session, I posed them because I leaned the way the Senator from Aroostook did. However, once you pose a question you have to listen to the response. The response in my view was very, very good, in that first of all we hear if our municipalities invest in the local bank, will indeed invest locally, or within the State of Maine to help business or whatever enterprise there is, is not the case. One Bank Representative who was present, I asked how much of the \$100 million they had lost was from the State of Maine or rather out of state. They couldn't answer that question. The answer I was provided with, subsequently, was that indeed most of that was out of state. Secondly, one of the largest banks, if not the largest in Maine, has invested \$600 million of our money out of state. When municipalities or anyone else deposits money in the bank, it is my understanding that the banks in turn have to collateralize that money with the Federal Government. If you deposit \$100,000 the bank will not turn around and loan out \$100,000 because they have to pay a fee for Federal paper in order to collateralize those investments they are going to make and protect the money. So much for investing within the State of Maine. The main reasons, and if I had been guaranteed and assured those monies would be reinvested in Maine, that might have been one story. You have to look at the fact that first of all the municipalities have had some losses from the General Revenue Sharing the GPA dollars. Presently when they invest in a short term deposit at a local bank, they probably are very fortunate if they receive 3 3/4 or 4 1/4 percent. The rate of return with the Municipal Bond Bank will be between 6 and 8 percent. That includes the fees and commissions and whatever administrative costs lie between. There is absolutely no risk to the investment. Most of the investment is in Federal Papers or guaranteed Federal Bonds.

Secondly, and very importantly, the municipality is not mandated to deposit in the Municipal Bond Bank. It is only an option. If the municipality chooses to invest with the Municipal Bond Bank they can do so at no risk to the local taxpayers. They can also withdraw at anytime. They don't have to wait for a CD to mature in 91 days or 120 days or whatever. They can withdraw at anytime. I think based on what I have told you, I was convinced. I confess to you that last year when we had this Bill before us, it was deferred until this month, I had

some questions. All of my questions have been well answered and I am very confident with my vote which was also with the Majority Ought To Pass. I hope you agree with me. Thank you.

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

Senator COLLINS: Thank you Mr. President. Ladies and Gentlemen of the Senate. The good Senator from Androscoggin says a great many things that do, in fact, support her viewpoint. There are and continue to be other things that are not precisely the same way throughout the state. For example, there are smaller banks, locally owned banks who, in fact, do use their money locally. Not all the banks in the State of Maine are part of a larger network. Those banks do, in fact, invest their funds locally, new homes, new businesses, and so forth. Those banks will, in fact, be adversely or the communities can be adversely affected by this type of mechanism. Secondly, the amounts of money that banks loan are determined by statute based upon their reserves. There is a formula that states if you have a certain number of deposits you can have a certain percentage of loans. As a rule of thumb, banks used to try to arrive at a percentage of 75 or 80 percent would be the amount they considered prudent to loan. That was based upon their deposits. You diminish the deposits and you immediately affect that ratio and the amount that can be loaned. You do have to concern yourself, at least somewhat, with those things. Obviously, Maine has become a State where we have several big banks that do control a lot of the funds in this State and those banks are at least regional banks and the money flows in and out in both directions. There are banks that surpluses of funds to loan at the present time. In terms of the long term venture, I really don't think this is a good idea. I would point out to you that there have been two new banks, Maine owned, starting from scratch just in the last year. One of them is in Portland and the other is in Aroostook county. There was one a few years ago in Bangor. I think you are going to see a turn about in banks becoming more localized. Actually recent history would suggest that some of the big boys haven't done the best job in the world. Some of our more local banks have done exceedingly well. I continue to ask you to consider not the Majority Report and keeping in mind that municipalities continue to have lots of options. If they have money to invest they can do it without the vehicle of the Bond Bank. Thank you Mr. President.

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

Senator EMERSON: Thank you Mr. President. Ladies and Gentlemen of the Senate. There is one point I don't believe has been made. As I understand it, towns can and sometimes towns do invest in this type of an arrangement. They can do this without paying the Bond Bank any fee for their services. I can't believe if towns want to do this they can do it through the banks now I am told.

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

Senator BERUBE: Thank you Mr. President. Ladies and Gentlemen of the Senate. I don't want to belabor the point but I think it should be pointed out that we were told the first year investment by municipality might amount to probably \$20 million dollars, maximum \$30 million dollars. The banks also have the opportunity if they so choose to compete

with better rates if they want to retain the business. The important thing to remember is specifically that first of all municipalities are very supportive and I believe the Maine Municipal Association also endorses this, the people in my area have called me and wanted my support on this and I also had voiced my concerns and they responded and refuted them very well. There is no risk. It is optional. It will allow the Municipality to retrieve a little bit of the losses we may have caused them to suffer through reductions and revenue sharing. Thank you.

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

Senator CARPENTER: Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to pose a question through the Chair to any Senator who cares to answer. Maine Municipal Bond Bank, are they also going to bid on low interest loans the town submits bids or puts out for bid a certain number of tax anticipation dollars and banks bid and have low interest rates to loan the money to the town? Is the Maine Bond Bank also going to bid on loans or is it going to be a one sided street where they take the deposits? Thank you.

THE PRESIDENT: The Senator from York, Senator Carpenter has posed a question through the Chair to any Senator who cares to answer.

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

Senator BERUBE: Thank you Mr. President. Ladies and Gentlemen of the Senate. Here I am on my feet trying to respond to banking issues, my only investment in banks has not done very well. Perhaps I was greedy when it was \$15.50 a share, I thought it would go up and it did, it went up to \$20-22 dollars and I thought I would wait and become rich overnight. They are now worth \$3.00. That is the extent of my knowledge of banking. However, I do know this, I do know that the monies that municipalities will turn over to the Bond Bank will be reinvested at a greater rate of interest than they are now getting. If that is what they want. They don't have to do that. If the local bank manager, the friendly banker at the corner, makes a better offer or offers other services to the municipality, they don't have to do that if they don't want to. It gives them an option to get a better return on their investment and that is what we all seek. Mine wasn't guaranteed, theirs will be. They would reinvest the money in government secured loans, bonds, and that sort of thing.

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

Senator BUSTIN: Thank you Mr. President. Ladies and Gentlemen of the Senate. Because I know that a lot of times when we have these carry over Bills we don't always have the statement of fact before us, I'd like to read the statement of fact on this Bill. I think it will clear some things up for you.

This Bill authorizes the Maine Municipal Bond Bank to create a combined investment fund for use by municipalities within the state. This fund allows municipalities to obtain short term investments, provide enhanced ease of access to investments that meet all state statutory requirements, and simultaneously provide a competitive rate of return. The fund facilitates proper record keeping for compliance with Federal Tax Code requirements on Arbitrary and Rebate standards. Similar combined

investment funds are operating in more than 20 other states. The Bill clarifies the definition of municipality. In addition, the Bill enhances the efficiency of the Bank's already existing power to borrow for short term and long term municipal capital needs by authorizing the bank to borrow on behalf of municipalities using security instruments other than a formal municipal bond. This makes it possible for municipalities approved for long term financing through the bank, to obtain more readily any short term bond anticipation financing that municipalities may require. This Bill also clarifies that the goals of the pool may be achieved by creating a separate registered pool of funds or that funds may be pooled and then invested in other already existing registered funds. Finally, the Bill allows a municipality to have any payments to it from the state deposited directly in its account in that pool.

In further answer to the question that was asked about investments of less than \$1 million. Small towns can put their money together to get the million dollars return. One other thing that I read is from the Maine Municipal Bond Bank, it was part of a background they gave when they testified at the Committee. Although all funds are pooled for investment purposes, each locality participating in the pool is reported separately. In essence, LGIP's function as financial intermediaries between local governments and financial institutions by using their technical expertise to invest the funds on behalf of those governments who contributed to the pool. These LGIP's have consistently provided 3 investment benefits of particular importance to local government. Safe investments, daily liquidity, and high rates of return, with about 10,000 participants in 25 states, LGIP's oversee \$32.5 billion and continue to gain the reputation as a successful tool of investment management. The municipalities need this and I think this Bill should be passed.

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

Senator **CARPENTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I think my question was probably answered, in that it wasn't answered. It seems to me that it is a one sided street when a municipality solicits bids for tax and participation funds. They receive a bid from several local or Maine banks with the lowest possible interest rate attached to those funds, the Maine Municipal Fund Bank won't answer these bids at the lowest funds. I understand that they will take money and invest money and pay interest on that money, but it seems to me it is somehow unfair in one sense where we expect the lowest possible rates in borrowing and the banks have been real good in the lowest rates, and then send the money to someone else for reinvesting. Thank you.

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

Senator **KANY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. In answer to the good Senator from York's question, the Municipal Bond Bank could issue tax anticipation notes if we chose to authorize it to do so.

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

A Division has been requested.

Will all those in favor of the motion of Senator **BERUBE** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, please rise in their places and remain standing until counted.

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

14 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion of Senator **BERUBE** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **FAILED**.

The Chair moved to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report.

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

THE PRESIDENT: The pending question before the Senate is **ACCEPTANCE** of the Minority **OUGHT NOT TO PASS** Report.

A Division has been requested.

Will all those in favor of **ACCEPTANCE** of the Minority **OUGHT NOT TO PASS** Report, please rise in their places and remain standing until counted.

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

14 Senators having voted in the affirmative, and 16 Senators having voted in the negative, the motion to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, **FAILED**.

Senator **CLARK** of Cumberland moved to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

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

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

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

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

The Senate called to Order by the President Pro Tem.

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

Senator **PRAY:** Thank you Madam President. Ladies and Gentlemen of the Senate. I am here as the Senator from Senate District 5 and the sponsor of the proposal that is before you. The proposal that I brought in last session at the request from the Maine Municipal Association after, interestingly enough, an anniversary of the event that occurred today. Today we had our 3rd Legislative Municipal Summit of which Legislators and Municipal Officials from across the state had an opportunity to get together and talk about things that were important to municipalities. It was a year ago at that conference that the genesis of this Bill came about and I looked at it and thought it was an idea I could support. An idea that is not mandatory, does not say that municipalities have to go to the State Bond Bank to invest its money. It provided them an opportunity in what was increasingly a less and less competitive market and a less and less favorable market to municipalities in the banking industry at that particular time.

Having looked at that, and having worked with Maine Municipal and the Maine Bond Bank to draft the proposal to create the opportunity for municipalities

if they so choose, to voluntarily pool their resources and make it more beneficial to them and allow them at the local level to make that option, I introduced the legislation. Previous to that, I had sponsored a couple of Bills that allowed municipalities to pool resources dealing with insurance, allowing them to pool in their own insurance pool, basically as self employers. Having been involved in those, I saw a great advantage to municipalities and insurance costs went down for them by their ability to pool their resources together. Obviously, one of the messages that we heard today from Municipal Officials was that the state on a continuous basis, utilizes its leverage it has on municipalities to balance on their backs without giving them any recourse. Obviously that is a perspective that we sometimes disagree with Municipal Officials. This Bill is a proposal, mild in nature, a meek proposal, only a voluntary proposal to allow them that opportunity. I don't think that this Senate, this Legislature wants to start getting into the area of denying opportunity, denying access to municipalities and a chance to have another recourse of saving local tax payers dollars, to make the greater return, a return that is their option. Whether they want to go to private institutions of the banks or whether they want to within themselves invest in a pool, which still that pool itself may be in some ways beneficial, or could be utilized to lower the tax rates in communities and advance revenues that would come into that community. That is the basic question. Do we trust our Municipal Officials to make sound judgement? Do we want to provide municipalities with additional options available to them? That is the question that is here. That is the question we are going to answer in our votes at this time.

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

Senator **CAHILL:** Thank you Madam President. Ladies and Gentlemen of the Senate. I would like to ask a question procedural if I may and I have to admit that after the last vote was taken I wasn't paying attention. I was speaking with my seat mate and I am not exactly sure where we are. It seems to me if a Committee Report, the Majority Report is rejected and the Minority Report is rejected, we are debating the Bill. Is that correct? I am not sure procedural where we are and I apologize.

THE PRESIDENT PRO TEM: The Chair would respond that the pending motion is Acceptance of the Majority Ought To Pass as Amended Report. There having been a intervening motion between the first time that question was before us.

On motion by Senator **PRAY** of Penobscot, Tabled 1 Legislative Day, pending the motion by Senator **CLARK** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report (Roll Call Ordered).

On motion by Senator **TWITCHELL** of Oxford, **ADJOURNED** until Thursday, January 30, 1992, at 4:00 in the afternoon.