

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

February 4, 1992

Senate called to Order by the President.

Prayer by Reverend William Morley of the United Methodist Church in Strong.

REVEREND WILLIAM MORLEY: Let us pray. Eternal God we are grateful for the gift of life and for the great responsibilities we have in such a place as this. We would ask for your wisdom and your grace and your provision that equality, peace, and justice might always prevail. We thank you for the gift of life in this land and for the love we have for it and for one another. Amen.

Reading of the Journal of Thursday, January 30, 1992.

PAPERS FROM THE HOUSE
Non-concurrent Matter

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

S.P. 858 L.D. 2182

In Senate, January 30, 1992, referred to the Committee on **LEGAL AFFAIRS** and **ORDERED PRINTED**.

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

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

Non-concurrent Matter

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

S.P. 878 L.D. 2250

In Senate, January 28, 1992, referred to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED**.

Comes from the House referred to the Committee on **BANKING & INSURANCE** and **ORDERED PRINTED** in **NON-CONCURRENCE**.

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

House Papers

Bill "An Act to Revise the Workers' Compensation Laws"

H.P. 1571 L.D. 2218

Bill "An Act to Require the Issuance of Motor Vehicle Insurance Identification Cards" (Emergency)

H.P. 1600 L.D. 2262

Comes from the House referred to the Committee on **BANKING & INSURANCE** and **ORDERED PRINTED**.

Which were referred to the Committee on **BANKING & INSURANCE** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Amend the Laws Governing the Practice of Hairdressing" (Emergency)

H.P. 1604 L.D. 2266

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

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

Bill "An Act Regarding Parental Rights"

H.P. 1596 L.D. 2258

Bill "An Act to Modify the Medical Examiner Act to Limit Liability of Medical Record Providers"

H.P. 1597 L.D. 2259

Bill "An Act to Consider All Sources of Income When Issuing Small Claims Judgments"

H.P. 1599 L.D. 2261

Bill "An Act to Enhance the Operations of the District Court Violations Bureau" (Emergency)

H.P. 1602 L.D. 2264

"An Act to Establish Consecutive Sentencing and Mandatory Minimum Sentences for Certain Persons Convicted of Gross Sexual Assault"

H.P. 1607 L.D. 2269

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

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

"An Act to Repeal Increases in Concealed Weapons Permit Fees and to Increase the Fees Related to Arbitrations under the Lemon Law" (Emergency)

H.P. 1601 L.D. 2263

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

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

Bill "An Act to Establish a Budget Committee and Process for Cumberland County" (Emergency)

H.P. 1603 L.D. 2265

Comes from the House referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**.

Which was referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Address Periodic Crises in the Preparation and Mailing of Checks to Clients of the Department of Human Services and to Ensure Priority Payment of Foster Care Expenses"

H.P. 1605 L.D. 2267

Comes from the House referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**.

On motion by Senator **CLARK** of Cumberland, Tabled Until Later in Today's Session, pending **REFERENCE**.

Bill "An Act Concerning the Registration of Truck Campers"

H.P. 1598 L.D. 2260

Committee on **TRANSPORTATION** suggested and **ORDERED PRINTED**.

Comes from the House referred to the Committee on **TAXATION**.

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

Bill "An Act Regarding the Time and Temperature Sign Located in Portland"

H.P. 1606 L.D. 2268

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

Joint Resolutions

The Following Joint Resolution: H.P. 1609

JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO CONSTRUCT A NATIONAL MEMORIAL HONORING WOMEN IN MILITARY SERVICE

WE, your Memorialists, the Members of the One Hundred and Fifteenth Legislature of the State of Maine, now assembled in the Second Regular Session, most respectfully present and petition the members of the Congress of the United States as follows:

WHEREAS, women are an integral and important part of the military; and

WHEREAS, over 1,600,000 women have served in the nation's armed forces; and

WHEREAS, there is a need to honor women for their fine performance in and outstanding contributions to the nation's armed forces throughout history; and

WHEREAS, the Members of the Legislature and the people of the State of Maine have the greatest pride in the women of the United States Armed Forces and support them in their efforts; now, therefore, be it

RESOLVED: That We, your Memorialists, support the Congress of the United States in its efforts to construct a memorial to the women who have served in the United States Armed Forces and respectfully urge and request that the Congress of the United States provide funding for the project; and be it further

RESOLVED: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable George H. W. Bush, President of the United States; the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States; the Secretary of Defense; the Honorable John R. McKernan, Jr., Governor of the State of Maine; and each member of the Maine Congressional Delegation.

Comes from the House **READ and ADOPTED.**
Which was **READ and ADOPTED,** in concurrence.

The Following Joint Resolution: H.P. 1610

JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO AMEND THE LAWS GOVERNING COMPENSATION FOR SERVICE-CONNECTED DISABILITIES

WE, your Memorialists, the Members of the One Hundred and Fifteenth Legislature of the State of Maine, now assembled in the Second Regular Session, most respectfully present and petition the members of the Congress of the United States, as follows:

WHEREAS, there exists a gross inequity in the federal statutes that denies disabled career military retirees the right to receive Veterans Administration disability compensation concurrently with the receipt of earned retirement pay due on the basis of 20 or more years of service in the Armed Forces of the United States; and

WHEREAS, the career military retiree is the only government employee who is now required to waive a portion or all of the retiree's earned retirement pay in order to receive Veterans Administration disability compensation due for loss of earning capacity and for pain and suffering as a result of a service-connected disability; and

WHEREAS, a change in the federal statutes is required to ensure equitable treatment for the many disabled career military retirees who served this country faithfully and with dedication for at least 20 years and now bear the burden of loss of earning capacity and endure pain and suffering as a result of their service-connected disability; and

WHEREAS, the prevailing idea that military retirement pay is free is false. There is an important contribution to retirement pay that is calculated to reduce military pay by approximately 7% when pay, base and allowance, are computed and approved by Congress; and

WHEREAS, traditionally, a career military retiree receives a lower salary than the retiree's civilian counterpart; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully recommend and urge the Congress of the United States to amend 38 United States Code, Section 3104(a) to permit veterans with service-connected disabilities and who are retired members of the United States Armed Forces to receive Veterans Administration service-connected disability compensation with earned longevity retirement pay without deduction from either; and be it further

RESOLVED: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable George H. W. Bush, President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, and to each Member of the Maine Congressional Delegation.

Comes from the House **READ and ADOPTED.**
Which was **READ and ADOPTED,** in concurrence.

COMMUNICATIONS

The Following Communication: S
.P. 892

115TH MAINE LEGISLATURE

February 3, 1992

Senator Zachary E. Matthews
Rep. Rita B. Melendy
Chairpersons
Joint Standing Committee on Housing and Economic Development
115th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Ford S. Reiche of Cumberland Center for appointment to the Maine State Housing Authority.

Pursuant to Title 30A, MRSA Section 4723, this nomination will require review by the Joint Standing Committee on Housing and Economic Development and confirmation by the Senate.

Sincerely,
S/Charles P. Pray
President of the Senate
S/John L. Martin
Speaker of the House

Which was **READ and REFERRED** to the Committee on **HOUSING AND ECONOMIC DEVELOPMENT.**
Sent down for concurrence.

The Following Communication:
**EXECUTIVE DEPARTMENT
OFFICE OF SUBSTANCE ABUSE
STATE HOUSE STATION 159
AUGUSTA, MAINE 04333**

January 31, 1992
The Honorable Charles P. Pray
President of the Senate
State House Station 3
Augusta, Maine 04333

Dear Mr. President:
We are pleased to send you a copy of the report "Chemically Dependent Women in Maine." This report was requested in P & S, Chapter 18 of the Laws of 1991 and has been sent to the Committee on Human Resources as directed by that law.

Should you have any questions concerning the report, please contact me at your convenience.

Sincerely,
S/Ronald G. Speckmann
Director

Which was **READ** and with Accompanying Papers
ORDERED PLACED ON FILE.

The Following Communication:
**WORKERS' COMPENSATION COMMISSION
STATE HOUSE STATION 27
AUGUSTA, MAINE 04333**

January 30, 1992

Honorable Charles P. Pray
President of the Senate
State House Station 3
Augusta, Maine 04333

RE: Quarterly Report for the Fourth Quarter of
Calendar 1991

39 M.R.S.A. §92(3)

Dear President Pray:

This letter and statistical attachments are the fourth quarterly report of Commissioner caseload and progress mandated by 39 M.R.S.A. §92(3).

The Commission disposed of 3,909 petitions by decision or dismissal in the fourth quarter of 1991, and received 3,839. The number of pending petitions decreased from 10,447 to 10,377 as of December 31, 1991. The backlog of petitions pending more than two years decreased 223 to 174.

During 1991, the Commissioners disposed of 15,006 petitions, a record number. Unfortunately, 15,357 petitions were filed. By comparison, the Commission disposed of 12,723 petitions and processed 14,555 petitions during 1990.

Throughout 1991, the number of pending petitions stayed in the area of 10,000, less than a year's filings. This is approximately 7,200 litigated cases as more than one petition may be filed in a case.

The number of contested cases relates to numbers of injuries in several previous years. It is not a subset of injuries in that calendar year. Employment levels began to decrease in 1990. We think this will start to have an effect in 1992. We anticipate a slight decrease in 1992 and a substantial decrease in 1993.

The Commission has been experimenting with statistical forecasting techniques based on employment in prior years. Last year we issued a prediction of 15,932 petitions in our annual report, close to the actual figure of 15,357. This year, we are forecasting 15,100 for 1992. With a little luck, it could be less.

The Commission is setting up a computerized docket management system. We think that it will result in additional efficiency in scheduling hearings and resolving disputes. It also will give us better statistical information. For example, we will be able to measure directly the number of cases instead of the number of petitions.

There have been no formal complaints or filings concerning the 30 day decision rule of 39 M.R.S.A. §99-B as implemented by Commission Rule 22.11.

A summary of caseload and dispositions is presented in the attached tables. I would be happy to discuss this report further if you wish.

Sincerely,
S/Ralph L. Tucker
Chairman

Which was **READ** and with Accompanying Papers
ORDERED PLACED ON FILE.

The Following Communication:
**PUBLIC UTILITIES COMMISSION
STATE HOUSE STATION 18
AUGUSTA, MAINE 04333-0018
February 3, 1992**

The Honorable Charles P. Pray
President of the Senate
Maine Senate
State House Station 3
Augusta, Maine 04333
Dear Senator Pray:

In accordance with Title 35-A of the Maine Statutes, I am enclosing the Annual Report of the Maine Public Utilities Commission.

Please do not hesitate to call if you have any questions regarding the materials contained in the report.

Sincerely,
S/Charles A. Jacobs
Administrative Director

Which was **READ** and with Accompanying Papers
ORDERED PLACED ON FILE.

The Following Communication:
**ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON TRANSPORTATION
January 30, 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 Transportation has had under consideration the nomination of Daniel J. Callahan of Mechanic Falls, for appointment to the Maine Turnpike Authority.

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 3
Representatives 9
NAYS: 1
ABSENT: 0

Twelve members of the Committee having voted in the affirmative and One in the negative, it was the

vote of the Committee that the nomination of Daniel J. Callahan of Mechanic Falls, for appointment to the Maine Turnpike Authority be confirmed.

Sincerely,

S/Senator R. Donald Twitchell S/Rep. Harold M. Macomber
Senate Chair House Chair

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

The President noted the absence of Senator **BRANNIGAN** of Cumberland, Senator **PEARSON** of Penobscot, Senator **FOSTER** of Hancock and excused them from today's Roll Call votes.

THE PRESIDENT: The Joint Standing Committee on Transportation has recommended the nomination of Daniel J. Callahan of Mechanic Falls be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on Transportation 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: Senator **THE PRESIDENT** - CHARLES P. PRAY

NAYS: Senators **BALDACCI**, **BERUBE**, **BOST**, **BRAWN**, **BUSTIN**, **CAHILL**, **CARPENTER**, **CLARK**, **CLEVELAND**, **COLLINS**, **CONLEY**, **DUTREMBLE**, **ESTES**, **ESTY**, **GAUVREAU**, **GILL**, **GOULD**, **HOLLOWAY**, **KANY**, **LUDWIG**, **MCCORMICK**, **MILLS**, **RICH**, **SUMMERS**, **THERIAULT**, **TITCOMB**, **TWITCHELL**, **VOSE**, **WEBSTER**

ABSENT: Senators **EMERSON**, **MATTHEWS**

EXCUSED: Senators **BRANNIGAN**, **PEARSON**, **FOSTER**

1 Senator having voted in the affirmative and 29 Senators having voted in the negative, with 2 Senators being absent, with 3 Senators being excused, and 1 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 Daniel J. Callahan, was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

SENATE PAPERS

Bill "An Act to Change the Term Secondary Vocational Education to Applied Technology and Adult Learning"

S.P. 888 L.D. 2281

Presented by Senator **BRAWN** of Knox
Cosponsored by Representative **BARTH** of Bethel
Submitted by the Department of Education pursuant to Joint Rule 24.

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

Bill "An Act to Require Insurance Companies to Honor Assignment of Medical Benefits for Clients of the Department of Human Services"

S.P. 889 L.D. 2282

Presented by Senator **WEBSTER** of Franklin
Cosponsored by Senator **BALDACCI** of Penobscot and Representative **PENDLETON** of Scarborough

Submitted by the Department of Human Services pursuant to Joint Rule 24.

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

Bill "An Act to Provide for Periodic Review and Modification of Child Support Orders"

S.P. 893 L.D. 2293

Presented by Senator **COLLINS** of Aroostook
Cosponsored by Senator **GAUVREAU** of Androscoggin, Representative **ANTHONY** of South Portland and Representative **HASTINGS** of Fryeburg
Submitted by the Department of Human Services pursuant to Joint Rule 24.

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

Bill "An Act Regarding the Purchase of Spirits at Agency Liquor Stores"

S.P. 890 L.D. 2283

Presented by Senator **MILLS** of Oxford
Cosponsored by Representative **LAWRENCE** of Kittery, Senator **SUMMERS** of Cumberland and Representative **STEVENS** of Sabattus
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

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

Joint Resolutions

Senator **CLARK** of Cumberland, under unanimous consent presented the following Joint Resolution, sponsored by Senator **PEARSON** of Penobscot (Cosponsored by: Representative **CASHMAN** of Old Town, Senator **LUDWIG** of Aroostook, Representative **TOWNSEND** of Eastport, Senator **COLLINS** of Aroostook, Representative **GRAHAM** of Houlton, Senator **VOSE** of Washington, Representative **BAILEY** of Township 27, Representative **POULIOT** of Lewiston, Representative **DONNELLY** of Presque Isle and Representative **MACBRIDE** of Presque Isle)

S.P. 891

JOINT RESOLUTION COMMEMORATING 1992 AS THE YEAR OF THE NATIVE AMERICAN

WHEREAS, the first Europeans arriving in the New World found the indigenous people a peaceful, spiritual people living in harmony with their environment; and

WHEREAS, aboriginal people have roots in Maine since time immemorial; and

WHEREAS, Maine today is home to over 6,000 Native Americans, the largest Native American population in New England, and is the home of 4 federally recognized tribes, the Penobscot Nation, the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians and the Aroostook Band of Micmac Indians; and

WHEREAS, the beauty of Maine's Indian heritage is one of the State's greatest assets; and

WHEREAS, Maine's Native Americans share their culture with the rest of the world through powwows, art, museums, dance, music, dramas, reenactments and story-telling and the contributions, both past and present, made by Maine's aboriginal people benefit all of Maine's people; and

WHEREAS, the heritage of Maine's indigenous people is represented by the many place names that reflect aboriginal influence; and

WHEREAS, Maine's Native Americans have shown great strength and endurance and have strived to preserve their culture and tribal traditions through the years and changing times; and

WHEREAS, Native Americans were truly the first conservationists and their inherent respect and love of nature are a lesson to us all; and

WHEREAS, a year-long celebration encompassing the entire State is a fitting tribute to Maine's Native Americans; now, therefore, be it

RESOLVED: That 1992 shall be known as "The Year of the Native American"; and be it further

RESOLVED: That We, the Members of the One Hundred and Fifteenth Legislature of the State of Maine, now assembled in the Second Regular Session, take this opportunity to call upon all of Maine's people to join in the celebrations planned for the year of 1992; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to Governor James Sappier, Governor Robert Newell, Governor Cliv Dore, Chair Clair Sabbatus and Chair Mary Philbrook in honor of the occasion.

Which was, under suspension of the Rules, **READ** and **ADOPTED**.

Sent down for concurrence.

COMMITTEE REPORTS

House

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 **AGRICULTURE** Bill "An Act Concerning the Shared Use of Crop-handling Equipment by Seed Potato Growers"

H.P. 1432 L.D. 2044

Ought to Pass

The Committee on **JUDICIARY** on Bill "An Act to Establish a Forest Service Bureau in Each Division of the District Court"

H.P. 1482 L.D. 2094

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

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

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

The Bill **READ ONCE**.

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

The Committee on **JUDICIARY** on Bill "An Act to Authorize Transfer of Venue for Multiple Cases by the Chief Justice of the Superior Court"

H.P. 1511 L.D. 2123

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

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

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

The Bill **READ ONCE**.

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

The Committee on **STATE & LOCAL GOVERNMENT** on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Piscataquis County for the Year 1992 (Emergency)

H.P. 1608 L.D. 2270

Reported that the same **Ought to Pass** pursuant to Joint Order (H.P. 1507).

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.

Ought to Pass As Amended

The Committee on **BUSINESS LEGISLATION** on 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

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-874)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-874)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-874) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **STATE & LOCAL GOVERNMENT** on Bill "An Act to Clarify the Economic Impact Analysis in Administrative Rule-making Procedures"

H.P. 1235 L.D. 1799

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-873)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-873)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-873) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **TRANSPORTATION** on Bill "An Act Regarding the Relocation of Utility Facilities as a Result of State Highway Construction"

H.P. 508 L.D. 702

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-871)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-871)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-871) **READ** and **ADOPTED**, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on JUDICIARY on Bill "An Act Regarding District Court Location" H.P. 207 L.D. 298

Reported that the same Ought Not to Pass.

Signed:

Senators:

- GAUVREAU of Androscoggin
- BERUBE of Androscoggin
- HOLLOWAY of Lincoln

Representatives:

- PARADIS of Augusta
- FARNSWORTH of Hallowell
- COTE of Auburn
- ANTHONY of South Portland
- RICHARDS of Hampden

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

Signed:

Representatives:

- KETTERER of Madison
- CATHCART of Orono
- HANLEY of Paris
- OTT of York

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 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 MCCORMICK for the Committee on BANKING & INSURANCE Bill "An Act to Change the Legislative Reporting Requirements of the Mandated Benefits Advisory Commission"

S.P. 810 L.D. 2009

Reported by Senator TITCOMB for the Committee on ENERGY & NATURAL RESOURCES Bill "An Act to Facilitate Municipal Landfill Closure" (Emergency)

S.P. 860 L.D. 2184

Reported by Senator VOSE for the Committee on MARINE RESOURCES Bill "An Act Authorizing the Establishment of Fisheries Management Zones" (Emergency)

S.P. 816 L.D. 2015

Ought to Pass As Amended

Senator PEARSON for the Committee on FISHERIES & WILDLIFE on Bill "An Act to Establish a Seasonal Permit for the Sale of Deer Hides"

S.P. 519 L.D. 1397

Reported that the same Ought to Pass as Amended by Committee Amendment "B" (S-533).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "B" (S-533) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Senator BERUBE for the Committee on STATE & LOCAL GOVERNMENT on Bill "An Act to Create a Budget Advisory Committee for Hancock County"

S.P. 814 L.D. 2013

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-536).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-536) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on BANKING & INSURANCE on Bill "An Act Concerning Small Business Employer Health Coverage Reforms"

S.P. 654 L.D. 1721

Reported that the same Ought Not to Pass.

Signed:

Senators:

- KANY of Kennebec
- MCCORMICK of Kennebec

Representatives:

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

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

Signed:

Senator:

- BRAWN of Knox

Which Reports were READ.

On motion by Senator KANY of Kennebec, the Majority OUGHT NOT TO PASS Report ACCEPTED.

Sent down for concurrence.

Divided Report

The Majority of the Committee on FISHERIES & WILDLIFE on Bill "An Act Concerning Road Kills"

S.P. 130 L.D. 232

Reported that the same Ought Not to Pass.

Signed:

Senators:

- PEARSON of Penobscot
- TWITCHELL of Oxford

Representatives:

- ROTONDI of Athens
- CLARK of Millinocket
- TRACY of Rome
- PAUL of Sanford
- SWAZEY of Bucksport
- JACQUES of Waterville
- CARROLL of Southwest Harbor
- DUFFY of Bangor
- FARREN of Cherryfield

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-534)**.

Signed:

Senator:

SUMMERS of Cumberland

Representative:

GREENLAW of Standish

Which Reports were **READ**.

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

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

Senator **SUMMERS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I rise in opposition to the motion before us. The Minority Report out of the Fisheries & Wildlife Committee would allow anyone, who so desires, to pick up these deceased furry little critters along the road. It is simply my feeling that in times of economic troubles the State is facing, that we don't expend any more resources than needed in terms of using state employees to pick up dead animals along the side of the road. For those reasons I would urge you reject the Majority Report.

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

Senator **BRAWN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. There have been a lot of jokes about this Bill from the minute it was put in a year ago. I think it is very important for me to briefly tell you why I put this Bill in and thank the people that have carried it thus far through this process and which I know it will die a graceful death. Confidentially, I am not supportive of allowing anybody to pick up animals on the highway. You would probably be killed if you tried to do that.

This Bill was brought in last year and a lot of things have happened since then, as we are all aware. A year ago, in the Mid Coast area where I live, we were experiencing a lot of growth. This growth displaced many animals from their homes. What precipitated this Bill, is all summer when I would drive from my home in Camden to Rockland, everyday there were animals in the road, crows eating on them, and no one seemed to pick them up. I think this is a serious matter. It precipitated when I had seen a fox early in the morning, a beautiful red fox, and I kept saying to myself he was going to get hit by a car. Sure enough by the end of the summer when I went in the morning, I saw him. It is sad for me because I love life, animals, and people. I think that this is not a joke. I remember going down in the morning and seeing him lying there dead on the side of the road and knowing it was going to happen because of the high capacity of traffic and the way our society has changed. What angered me most is when I came home at 4:30 in the afternoon, it had been a very hot day, the fox was still lying there on the side of the road. I went right to the Police Department and reported it. I think it should have been picked up. These events are what precipitated this Bill.

When the Bill first came in and was laughed at, I received this letter that I want to share with you. The Bill first went to Transportation Committee where we thought it would be taken care of. Jane Lincoln sent me this letter on February 15, 1991. It said: The removal of road kills from State and State aid highways is a responsibility of our Highway and Maintenance crews. Therefore, they should take care of it.

The fires were fueled a little bit by people who were talking about this Bill and then in the Sunday Telegram on February 24, 1991 this is why the Bill went over to Fisheries & Wildlife. Commissioner Vail said this really is not addressed in the law. Mother Nature does a pretty good job of cleaning up by herself when State or Local road crews fail to intervene. There was an issue. It was not addressed in the law. The Fisheries & Wildlife Committee, it is my understanding, decided to carry over this Bill to watch and see what was happening. When the Bill was heard again here and with the Amendment that has come out, I was frankly surprised it was a Divided Report. If anything can come from this, when Spring comes and the animals come out of hibernation, take note and remember that.

I do have a couple of more points, if you would bear with me. I say this on purpose. There is an article from the Maine Times, January 4, 1991. What is Maine's most aggressive killer of small animals. What would you guess is Maine's most aggressive killer of small animals - cars. I am not going to read the whole article, but I do want to say for the record, that I think whoever has put this joke on our desk really should think about life and animals. I remember when my brother first got his license, he went off the road to miss hitting a cat because we were brought up to respect life, whether it was a person or a animal. For us to joke about "You Kill It, We'll Grill It" when people are going hungry in this State, I think it is not a very good thing. Just a few minutes ago on our Calendar, here in the year of 1992, we were talking about Native Americans. What would our Native Americans have thought about this aggressive killer of small animals. I know there are a lot more important issues here. I know that. This process has gone through and has brought this Bill to you today. I want to thank the people that were involved. I urge you, when Spring comes, to watch what happens to the animals in your area. Thank you.

On motion by Senator **TWITCHELL** of Oxford, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**.

Sent down for concurrence.

SECOND READERS

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

House As Amended

Bill "An Act to Regulate Certain Warranty Practices for Repairs to Watercraft"

H.P. 1319 L.D. 1909

(C "A" H-866)

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

Senate As Amended

Bill "An Act Providing Nursing and Boarding Home Residents with a Right of Action for Violations of Their Resident Rights"

S.P. 590 L.D. 1562

(C "A" S-532)

Bill "An Act to Extend the Reporting Date of the Commission to Study the Retirement Benefits Provided by the State" (Emergency)

S.P. 807 L.D. 2006

(C "A" S-531)

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

ORDERS OF THE DAY

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-528)**

Minority - **Ought Not to Pass**

Tabled - January 30, 1992 by Senator **CLARK** of Cumberland.

Pending - Motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report (Roll Call Ordered)

(In Senate, January 28, 1992, Motion to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report **FAILED**. Subsequently, motion to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report **FAILED**.)

On motion by Senator **CLARK** of Cumberland, Tabled Unassigned, pending the motion by the same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report (Roll Call Ordered).

Senator **BUSTIN** of Kennebec was granted unanimous consent to address the Senate on the Record.

Senator **BUSTIN**: Thank you Mr. President. Ladies and Gentlemen of the Senate. I think all of you are very much aware of the recent press I have received in the paper. I think this Body and anyone who can hear me ought to hear from me on the matter. I am going to quote something I am sending to the papers because it says what I feel on this matter.

I want to make the readers aware of what has transpired since the unfortunate incident involving Frank Amoroso and myself at the BIDE hearing last week. When the governor made public his criticism of my remarks, via a letter he had his office distribute to the press, I had already sent a written apology to Mr. Amoroso. I have talked with Mr. Amoroso after the governor sent his letter to the press, a letter, I might add, the governor sent to the press on Friday. I did not see it until the following Monday. Mr. Amoroso, in our private conversation, told me that no apology was necessary.

The written apology I sent expresses my deep regret for uttering comments that were meant in jest but may have been perceived as an ethnic slur. Since my letter of apology was sincere and personal, I have left it up to Mr. Amoroso to make the letter public if he so desires.

My intent in making the comment was to lighten a very tense hearing that I felt was causing Mr. Amoroso a great deal of discomfort. I hoped I could relieve his apparent nervousness. When I heard the words coming out of my mouth, I knew they might not be taken the way I had intended. They go against everything I have stood for in my public and private life. Those who know me understand that I abhor bigotry in whatever form it takes. They know my belief that the fabric of our society is so rich in tradition because we are of different heritages, and because we respect each other for our differences. Those who know me know this is truly the way I feel.

They will also know that my words were instantly regretted. All of us, at one time or another, have been guilty of just this type of a "slip of the tongue." That does not excuse it by any stretch of the imagination, and I accept responsibility for my remark.

But perhaps, there is a lesson we can all learn from this regrettable episode. Let us all pledge to be more compassionate to our fellow beings. Let us think before we speak. What we feel may be helpful to say in a given situation may, in effect, prove hurtful to individuals or to an entire group of people.

Lastly, I must question the motive behind and the way Governor McKernan decided to make his criticism of my remarks public. The governor saw fit to deliver his letter directly to the State House Press on Friday afternoon before he allowed me the opportunity to see it. This method of operation is certainly below what we should expect from the high office of Governor. It is below the common courtesy we should extend to all citizens of this State. Sadly, it comes from a governor who has made so many derogatory remarks regarding our state employees.

Governor, my embarrassment is real. My apology to Mr. Amoroso is sincere. The state has greater problems facing it than this incident that you have seen fit to use to your political advantage. It is time you started leading your state. It is time you started paying attention to the problems facing us. It is time you refrain from trying to score political points by looking for isolated incidents you feel can further embarrass those who don't always agree with you.

I am preparing a letter of response to your letter. I will allow you to receive it and then it is up to you to make it public if you so desire. That is only human courtesy. A courtesy that you did not afford me.

I feel that this has damaged my advocacy of those very things I have stood for all these years. My daughter has said to me that this is the reason she does not want me to run for office. She does not want to see in print, something about her mother that she knows is not true, never would be true, and never will be true. This is not the way the State of Maine runs their political campaigns or leads their State. For those people who think that this is the method for gaining that leadership or being elected, they are sadly mistaken. They are basically wrong and we should not stand for it. Thank you Mr. President.

Senator **DUTREMBLE** of York was granted unanimous consent to address the Senate on the Record.

Senator **DUTREMBLE**: Thank you Mr. President. Ladies and Gentlemen of the Senate. I have stood before this body many times before on issues that deal with something like this. I have told you time and time again, there is nothing more gut wrenching to me than this. I have given you instances of things people have said about Franco Americans, Irish, Italians, Greeks, and other ethnic groups that have absolutely torn me apart. It came from people who I know meant it. This is not the case with Senator Bustin. I think she is sincerely sorry for what happened. One person who was really hurt a great deal by this was Senator Bustin herself. Although Senator Bustin and I are like oil and water on many issues, believe it or not Senator Bustin is

one of the Senators in this Body who I have spent a great deal of time with in my office talking about issues that deal with people. I know where Senator Bustin comes from. If there is one thing I know about is how sorry she feels, I know she has punished herself many times over since that comment was made. People who make comments many times are not sorry and let the comments stand. It takes a lot of courage to get up in front of Maine people and apologize. Especially when we all know, every person in this body knows, that Senator Bustin is not that type of person. From what I understand, she clearly apologized for the remark as soon as it came out of her mouth, knowing that in jest she had made a mistake. Coming from an ethnic group who has heard it all, I think that we know that Senator Bustin's apology is very sincere and courageous. I appreciate her apology and I appreciate it for all those people in the past who never made them when they should have.

Senator **CONLEY** of Cumberland was granted unanimous consent to address the Senate on the Record.

Senator **CONLEY**: Thank you Mr. President. Ladies and Gentlemen of the Senate and specifically the good Senator from Kennebec, Senator Bustin, whom I have not spoken with since last Friday's incident, which I would characterize as such since I learned of it from the news like most people in here. It is always very difficult to get the true facts of what occurred this way. I am a State Senator from the county of Cumberland, specifically the City of Portland, which has one of the two centers for the Italian heritage in my district and the district from which Frank Amoroso hails. He is an individual for whom I have tremendous respect for and though I have not always agreed with what he has done at BIDE, I have tremendous respect for him as an individual. I must tell this body and the good Senator, I don't get that many constituent calls, but I did get a number of calls from members of that particular center and citizens of my district who are of Italian-American descent, extremely upset with the way the incident was reported in the news. After hearing from them and to each and every one of those individuals I could talk to about the person I know to be Senator Bustin, whom I have had experience with in this Body and much experience over the last 10 years I have been working in Augusta. I assured these people as I have taken from the words she has just said as well as the words I read in the newspaper regarding her response to Mr. Amoroso, that she did not intend these words to mean what they sounded like. She apologized for any inference one would have gathered from them. I indicated to these individuals that actions do speak louder than words, that Senator Beverly Bustin the individual I know, in any single Bill that has ever come here regarding discrimination, has been on the side against discrimination. Her actions have spoken louder than words here over the past 10 years and then some that she has served in this body.

I also spoke personally with Frank Amoroso Saturday night, who I happen to run into out in public. I want to assure this body that although he was upset when this incident occurred, mostly because of all the tension with BIDE hearings, he accepted Senator Bustin's apology and he was sorry the incident got the type of play which it did in the press making you, Senator Bustin, out to be a person I do not believe you are and who Frank Amoroso does

not believe you are which I think is the most important point. He knows that this does not reflect an attitude which you have towards Italian Americans or towards him personally. I am proud of you, like the good Senator from York, Senator Dutremble is, for standing up and apologizing on the record. I know in your heart you would not reflect what that statement may make other people think with the way it was said. You have never had a very good sense of humor, in my opinion, and should refrain from making any jokes of any nature, whether in public hearing or here on the floor. I would ask you to leave the comedy to the true clowns, such as myself, in the future. Thank you Mr. President.

Senator **GAUVREAU** of Androscoggin was granted unanimous consent to address the Senate on the Record.

Senator **GAUVREAU**: Thank you Mr. President. Ladies and Gentlemen of the Senate. Like the speakers who have presented before me, I feel compelled to rise briefly this afternoon and place a few comments on the record with respect to the remarks of our governor regarding the good Senator from Kennebec, Senator Bustin.

It is with a sense of despondency that I feel I have to rise this afternoon, as we all view and watch with more and more concern the level of politics which apparently some people are willing to accept in our society. I mean that in terms of the press, of those in the public, as well as those involved in public life. It is particularly sad in this case. It seems to me, as I leave this Legislature after this session, it seems to me that I can say with full candor that I think the comments of the governor were more political than perhaps Senator Bustin graciously led on in her presentation to you. We are all aware of the press play which the BIDE story has had in this state over the last year and as well as the on going battle for political supremacy between the Democrats and Republicans. I suppose those worthy objectives, in some people's minds, transcended what I would think would be a basic act of humanity which is to respect each other for the contributions which you have brought. Certainly the Senator from Kennebec, Senator Bustin has brought many contributions to this body during her many years of public service and I emphasize the term service. I made a joking remark in my Committee on Judiciary this afternoon regarding those of us who serve in public life, when I commented that I didn't appreciate until this year just how Don Zimmer felt in 1979 in Boston after the Red Sox had blown the pennant to the New York Yankees. I think all of us now feel the heat that perhaps Coach Zimmer had.

This afternoon the Committee on Judiciary met all afternoon and considered budget issues. We met with the members of the Judiciary, including Chief Justice Vincent McKusick. All of us on the Committee on Judiciary really stood in awe of the achievements of the Chief Justice. We all recognize the level of civility, the level of cerebroside, and the level of integrity that that individual has brought to the State of Maine and into our courts during his fifteen years as the Chief Justice of our judicial system. It struck me as I went about the afternoon dealing with difficult budget issues, the grace and the dignity which the Chief Justice has brought to these difficult deliberations and discussions and how incongruous it would be to even have the suggestion

of the kind of petty discussion that apparently has occurred with respect to Senator Bustin.

As the good Senator from Cumberland, Senator Conley eluded to, Senator Bustin has throughout her public service been a strong and a vibrant voice against discrimination, bigotry, and prejudice in our society. Personally, I think there has been some damage to the reputation of Senator Bustin. Unfortunately, the press might report a story, but doesn't often times do a follow up. It may well be, unfortunately, for those people who do not know Senator Bustin, they may be left with the impression she did make a comment of some bigotry or prejudice when we all know that is not the case. We all know that she has been a tireless advocate against discrimination and against prejudice in our society. As I close my remarks this afternoon, certainly everyone in this room appreciates the type of person Senator Bustin is, but it is with a sense of despondency that I feel I have to rise because some people will not have the benefit of knowing Senator Bustin and will not know the kind of person she is or the type of character she has. Thank you Mr. President.

Senator **BALDACCI** of Penobscot was granted unanimous consent to address the Senate on the Record.

Senator **BALDACCI**: Thank you Mr. President. Ladies and Gentlemen of the Senate. It is snowing outside and I know it will be difficult driving back and forth so I will be brief.

In regards to the particular issue of the remarks of the good Senator from Kennebec, Senator Bustin. Italian Americans have had a difficult time trying to overcome the stereotypes as every other nationality has had that difficulty. I remember we were fighting the Irish stigma in Northern Ireland, in general we always have those fights with newspaper editors in my area and they finally left. We were finally able to kick them out. In the fights for the blacks in South Africa, African Americans, the French people and the difficulties they have had, the Polish people and the difficulties they have had, we have all worked together and Senator Bustin has always been a part of those fights. I want to relay to my good friends here and throughout the state that those kinds of remarks, while they are very troubling, at the same time you have to remember Senator Bustin probably did that to make everyone feel at ease. She wanted to relax the tension that was probably there and harm was not meant by her remarks. I have always worked very closely with Senator Bustin, she has always been very helpful and has always been there to help me and all the disadvantaged groups. In the Senate on particular issues it would be 25 to 5 and Senator Bustin would always be with the 5. She was always trying to help those people that needed it. It goes against that kind of recognition. I just wanted to relay that message to the Senate and to Senator Bustin in particular, and I enjoy working with you and look forward to continuing to work with you. Thank you Mr. President.

ORDERS OF THE DAY

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

Bill "An Act to Address Periodic Crises in the Preparation and Mailing of Checks to Clients of the Department of Human Services and to Ensure Priority Payment of Foster Care Expenses"

H.P. 1605 L.D. 2267

Tabled - February 4, 1992 by Senator **CLARK** of Cumberland.

Pending - **REFERENCE**

(In House, January 30, 1992, **REFERRED** to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**.)

Which was referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**, in concurrence.

Senator **SUMMERS** of Cumberland was granted unanimous consent to address the Senate off the Record.

On motion by the Chair, **ADJOURNED** in memory of Edward P. Cyr of Madawaska, until Thursday, February 6, 1992, at 4:00 in the afternoon.