

MAINE STATE LEGISLATURE

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

VOLUME V

FIRST REGULAR SESSION

Senate

June 19, 1995 to June 30, 1995

FIRST CONFIRMATION SESSION

September 14, 1995

FIRST SPECIAL SESSION

House of Representatives

November 28, 1995 to November 30, 1995

Senate

November 28, 1995 to November 30, 1995

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

In Senate Chamber
Monday
June 26, 1995

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

Prayer by the Honorable John W. Benoit of Franklin.

SENATOR JOHN W. BENOIT: Good morning. Last Friday, when Mr. President wasn't in his office, I sat in his chair. Now I find myself on his rostrum, the next legislative day. I guess you could almost coin a phrase in all of this, "Benoit is on the move." Just a comment about the session soon to be over. When it is, I plan to have a major let down, so much so that I have already scheduled counseling sessions in Rangely to get me through the transition, and each one of you in this Chamber is to blame for all of that. What I have for a prayer is a bit of homemade doggerel. If it had a title, it would be "There's a Bit of E.T. In You, and In Me."

When I look out a window and see a green tree, I know our creator made it for you, and for me. When I look in your eyes and see a lively hue, I know our creator lives in me, and in you. If we could see far across time, and across space, we certainly would see our creator's own face. Lacking all that, we should still do the next best thing, sharing love smiles that tug at our creator's heartstring. Peace.

Pledge of Allegiance led by **SENATOR CAREY** of Kennebec.

Reading of the Journal of Friday, June 23, 1995.

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act Regarding Cable Television"
H.P. 831 L.D. 1162

In House, June 15, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-289).**

In Senate, June 15, 1995, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

Comes from the House, that body having **ADHERED**.

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

Senator **LAWRENCE** of York moved that the Senate **RECEDE** and **CONCUR**.

Senator **KIEFFER** of Aroostook requested a Division.

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

A Division has been requested.

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

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

9 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion of Senator **LAWRENCE** of York to **RECEDE** and **CONCUR**, **FAILED**.

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

House Paper

Bill "An Act to Amend Certain Effective Date and Referenda Provisions Regarding the Authorization for a Community School District in the Towns of Mechanic Falls, Minot and Poland"

H.P. 1138 L.D. 1581

Reference to the Committee on **EDUCATION AND CULTURAL AFFAIRS** suggested and **ORDERED PRINTED**.

Comes from the House, referred to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and **ORDERED PRINTED**.

Which was referred to the Committee on **EDUCATION AND CULTURAL AFFAIRS**, in concurrence.

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act Regarding Unredeemed Deposits on Beverage Containers"
H.P. 506 L.D. 687

Reported that the same **Ought to Pass as Amended** by Committee Amendment "A" (H-498).

Signed:

Senators:

HARRIMAN of Cumberland
CIANCHETTE of Somerset
GOLDTHWAIT of Hancock

Representatives:

BIRNEY of Paris
CAMERON of Rumford
DAVIDSON of Brunswick
LIBBY of Kennebunk
REED of Dexter
SIROIS of Caribou

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

Signed:

Representatives:

ROWE of Portland
BRENNAN of Portland
KONTOS of Windham
POVICH of Ellsworth

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-498)**.

Which Reports were **READ**.

Senator **HARRIMAN** of Cumberland moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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

Senator **CLEVELAND:** Thank you, Mr. President. I'm unfamiliar with the Committee Report and what it does. Would someone be kind enough to explain it?

THE PRESIDENT: The Senator from Androscoggin, Senator Cleveland, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Cumberland, Senator Harriman.

Senator **HARRIMAN:** Thank you, Mr. President. The Committee on Business and Economic Development heard the bill entitled "An Act Regarding Unredeemed Deposits on Beverage Containers", and what we discovered through the process of the public hearing was that, in the State of Maine, when a distributor

sells a container that has a five cent deposit required, when a distributor has not redeemed all of the containers that they have distributed, there is a pool of money there. Under current law 50% of that money is forwarded to the State of Maine. What we also discovered is that because of the expanded bottle bill in Maine, where Maine is the only state in the nation where non-carbonated beverages, like Ocean Spray juice and Snapple, and I'm sure there are many others out there, but because Maine is the only state in the nation that has those containers under the deposit law some distributors, one for example in the York and Cumberland County area, has redeemed over 9 million more containers than they have sold. Let me expand, if I might. When over-redemption occurs, the distributors have gone to the State of Maine and asked for 50% of the over-redemption to be returned to their checkbook. The State Treasurer has refused to send that 50% back on the basis that it was not in current law. This amendment would allow the state to repay deposit initiators that 50% of over-redeemed deposits. Thank you.

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

Senator **LAWRENCE:** Thank you, Mr. President. May I pose a question through the Chair? If anyone can tell me, is there a fiscal note on this bill? If so, how much is it?

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

Senator **HARRIMAN:** Thank you, Mr. President. First, let me answer the good Senator from York, Senator Lawrence, that the money that comes in from these deposits are dedicated to the Maine Waste Management Agency. As I understand it, there was, at the beginning of this legislative session, a rather significant financial note to the bill. As it ultimately ended up it was in the \$700,000 range. For some miraculous reason it is now down into the \$30,000 range. It would be money that wouldn't be going, any longer, to an agency that no longer exists.

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

Senator **MCCORMICK:** Thank you, Mr. President. May I pose a question through the Chair? So, I take it that the fiscal note is around \$750,000. Was that amount spread around the other agencies that are going to be taking up the functions of the Maine Waste Management Agency in order to deal with the problems created by our waste stream?

THE PRESIDENT: The Senator from Kennebec, Senator McCormick, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Cumberland, Senator Harriman.

Senator **HARRIMAN:** Thank you, Mr. President. In answer to the good Senator from Kennebec, Senator McCormick, my understanding, is a result of similar bills to the one that we are voting on now, was also

addressed in the Natural Resources Committee, and I believe the Taxation Committee also had a bill of a similar nature. The Chairs of the Natural Resources Committee came before the Business and Economic Development Committee, and they recommended the elimination of the unredeemed deposits as a funding source. We did not hear of any objection from the Department of Environmental Protection that they needed these funds to continue their responsibilities. Thank you.

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

Senator **MCCORMICK:** Thank you, Mr. President. I guess I have another question. Someone help me with the revenue flow of this. When we buy a beverage, and we pay the five cent deposit, it goes into this fund which now this amendment is proposing to allow the beverage companies to take. Is that what I am understanding?

THE PRESIDENT: The Senator from Kennebec, Senator McCormick, has posed a question through the Chair to any Senator who may care to respond. Senator Harriman of Cumberland requested and received leave of the Senate to speak a fourth time. The Chair recognizes the Senator from Cumberland, Senator Harriman.

Senator **HARRIMAN:** Thank you, Mr. President. Let me, if I can, make sure it is clear to all in the Chamber that present law says that when a distributor has under-redeemed their deposits, meaning if they have sold a million containers and they have only redeemed 800,000 containers, of that pool of 200,000 containers, which each have a five-cent deposit on it, present Maine law says that 50% of that money will come to state government. Conversely, when a distributor has sold 1 million containers here in the State of Maine, and they have redeemed 1,200,000 containers, that 200,000 of over-redemption, the distributors have come to the State of Maine and said they would like to have 50% of that back. Present Maine law, as it is interpreted, does not have 50% of those over-redemptions sent back to the distributor. What we are trying to do here is just create fairness. If you have under-redeemed and have paid 50% to the State of Maine, then if you have over-redeemed then you should get back 50% of what you have been paying. Thank you.

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

Senator **CAREY:** Thank you, Mr. President, Members of the Senate. Apparently these bottle bills have been appearing before many of the Committees. Taxation had one as well. We were pretty well lobbied, at least some members of the Committee were, to abolish the unredeemed bottle deposit entirely. Currently the Treasurer's office has the Department of Audit, and that is the outfit that determines whether or not they is an over-redemption or an under-redemption. Whether money is owed to the State, or to the distributor, if you would. I would point out to you that, and this is a prediction, that once the law is abolished and there is no more of the payments from the State to the over-redeemed distributor, that there will be a lot more careful as

to what bottles and cans they take in, especially along the border. I would strongly recommend that maybe somebody ought to think about licensing the redemption centers, with penalties and a Class E crime, or something, so that if, in fact, they are slipping in bottles, people aren't even bothering to check on the bottles now, simply because it's just a matter of the distributor saying, "I over-redeemed."

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

Senator **CLEVELAND:** Thank you, Mr. President, Men and Women of the Senate. I can certainly understand the efforts of this bill to try to make it equitable so that if there is over-redemption that money which was returned to the State, the State shares in 50%. But, I think it raises a question for me, and I would appreciate some clarification on what efforts are going to be made to try to reduce those illegal redemptions coming into the State. Clearly that's where they are coming from, from outside our borders. They haven't been distributed within Maine, so therefore a deposit hasn't been made, and apparently there are those who are taking advantage of that situation to bring in a significant number of containers that have not had a deposit paid on them. It seems to me that it would benefit both the distributors and the public if we could minimize that occurring. So, if someone could speak to that issue on how this bill will address the reduction of illegal, or non-deposit paid, containers coming into this State I would be most appreciative.

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

Senator **CIANCHETTE:** Thank you, Mr. President. I cannot answer the question directly, and explicitly. I do know that I sat in on hours of hearings and discussions and conversations, and I would have to be refreshed on what we talked about in order to give a good explanation to the questions. I do know that when I left there I felt very comfortable that we were doing the right thing. If, in fact, the Senate wants more detailed information, I would be happy to go back, refresh myself, get all the facts together, and come back and report to the Senate. So, if the Senate would like to have that, perhaps they should table this bill further and I would be happy to volunteer those services.

THE PRESIDENT: Senator Harriman of Cumberland requested and received leave of the Senate to speak a fifth time. The Chair recognizes the Senator from Cumberland, Senator Harriman.

Senator **HARRIMAN:** Thank you, Mr. President. I could answer the good Senator from Kennebec, Senator Carey's question in two ways. First, we had a separate bill that has already passed through the legislature that would allow distributors who distribute products exclusively in the State of Maine, for example the Snapple line of drinks is distributed exclusively here in the State of Maine, so that you don't find Snapple coming in through, say, a Wal-Mart or a K-Mart or from some other distribution center. They are distributed exclusively here by companies here in Maine. We have already passed a law that allows those distributors

to have the option of labeling the bottle with their own sticker. What's important here is that now, because Maine is the only state in the nation that has this form of deposit, the distributor can go back to the manufacturer and say, "Stop printing the five-cent Maine deposit on the label." When the container ends up here in Maine the distributor will put a five-cent deposit sticker on the bottle. So, that would address the cross border problems somewhat. The second bill that you have already passed in this session is a study program where we will hopefully be able to look at the bottle bill in its entirety, and come back to you in the next session to address some of the concerns that have been raised here today. Thank you.

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

Senator **KIEFFER:** Thank you, Mr. President. May I pose a question through the Chair? I guess I'm confused on this issue. The cans and bottles, and every kind of a container I see, contains the wording that there is a five-cent refund on the return of these containers. Am I hearing that this is completely ignored by the people that get the refund from these containers? What is the purpose of having that on there if it is being completely ignored?

THE PRESIDENT: The Senator from Aroostook, Senator Kieffer, has posed a question through the Chair to any Senator who may care to respond. Senator Harriman of Cumberland requested and received leave of the Senate to speak a sixth time. The Chair recognizes the Senator from Cumberland, Senator Harriman.

Senator **HARRIMAN:** Thank you, Mr. President. To the good Senator from Aroostook, Senator Kieffer, what we are experiencing here in the State of Maine is that because Maine is the only state in the entire country that has a five-cent deposit printed on the label of containers that are non-carbonated beverages, what we are finding is that entrepreneurs in other states are gathering up these containers, because they say Maine five-cent deposit, and they are crossing the border into Maine and redeeming them here. The redemption centers are presumably under obligation to redeem these containers because they have a Maine five-cent label. We have also passed legislation in this session that would address that cross-border depositing, but as it stands now the only state in the country is Maine who is doing this, and it has become a rather lucrative business for people to cross the border and redeem them.

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

Senator **CLEVELAND:** Thank you, Mr. President. My concern is that if we don't address the root of the problem that in future years we will be building a larger and larger financial obligation, not only to the distributors, but to the State as well, because we won't have dealt with the issue of those entrepreneurs from other states who pick up the bottles, cans, and containers and bring them, en masse, to this state to collect a deposit that was never paid on those containers. It seems to me that we need to address both of them aggressively,

otherwise I think we may be increasing an obligation financially, both to distributors, which is unfair, and to the taxpayers of the State, which, I think, is unfair as well. I would request a Division when the vote is taken, Mr. President. Thank you.

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

THE PRESIDENT: The pending question before the Senate is the motion by Senator **HARRIMAN** of Cumberland that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

A Division has been requested.

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

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

22 Senators having voted in the affirmative and 4 Senators having voted in the negative, the motion by Senator **HARRIMAN** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-498) **READ**.

On motion by Senator **HARRIMAN** of Cumberland, Senate Amendment "A" (S-330) to Committee Amendment "A" (H-498) **READ**.

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

Senator **HARRIMAN:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. The amendment that is before you does not impact any other provisions in Maine's beverage container law. It has no affect on the five-cent deposit. I need to also say that the Natural Resources Committee, and the Maine Waste Management Agency, recommended elimination of the unredeemed deposits as a funding source to the solid management fund. In fact, it has been concluded that the State may owe more to distributors in reimbursements than is being collected under the current program. This means that the unredeemed deposit law may actually become a drain if we don't adopt this law. The amendment that I have put before you simply changes the Committee Report from allowing the Treasurer, who may decide to reimburse, to requiring the State Treasurer to pay deposit initiators for their over-redemptions. Thank you.

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

Senator **CAREY:** Thank you, Mr. President. The Committee Amendment says after the payment has been made, and to the extent that sufficient revenues from deposits collected during calendar year 1995 remain, the Treasurer of State may equitably pay deposit initiators. This amendment says the Treasurer of the State shall pay deposit initiators. I would ask the good Senator from Cumberland, Senator Harriman, where is the money going to come from?

Divided Report

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

Senator CAREY of Kennebec moved that Senate Amendment "A" (S-330) to Committee Amendment "A" (H-498) be **INDEFINITELY POSTPONED**.

THE PRESIDENT: The pending question before the Senate is the motion of Senator CAREY of Kennebec that the Senate **INDEFINITELY POSTPONE** Senate Amendment "A" (S-330) to Committee Amendment "A" (H-498).

The Chair ordered a Division.

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

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

8 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion of Senator CAREY of Kennebec to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-330) to Committee Amendment "A" (H-498), **FAILED**.

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

Senator CAREY: Thank you, Mr. President. I believe now we have reached the height of irresponsibility, and I would certainly hope that one of the things that happens is that the Appropriations Committee will end up putting this little beauty on the Table so we can get a fiscal note on it.

THE PRESIDENT: The pending question before the Senate is the motion by Senator HARRIMAN of Cumberland that the Senate **ADOPT** Senate Amendment "A" (S-330) to Committee Amendment "A" (H-498).

The Chair ordered a Division.

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

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

17 Senators having voted in the affirmative and 9 Senators having voted in the negative, the motion by Senator HARRIMAN of Cumberland to **ADOPT** Senate Amendment "A" (S-330) to Committee Amendment "A" (H-498), **PREVAILED**.

Committee Amendment "A" (H-498), as Amended by Senate Amendment "A" (S-330), thereto, **ADOPTED**, in **NON-CONCURRENCE**.

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

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Amend the Laws Regarding Child Placing Agency Disclosure of a Child's Background for the Purpose of Adoption"

H.P. 1080 L.D. 1522

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-596)**.

Signed:

Senators:

MILLS of Somerset
PENDEXTER of Cumberland
FAIRCLOTH of Penobscot

Representatives:

TREAT of Gardiner
RICHARDSON of Portland
JONES of Bar Harbor
WATSON of Farmingdale
LAFOUNTAIN, III of Biddeford
MADORE of Augusta
PLOWMAN of Hampden
NASS of Acton
LEMKE of Westbrook

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

Signed:

Representative:

HARTNETT of Freeport

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-596)**.

Which Reports were **READ**.

On motion by Senator MILLS of Somerset, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-596) **READ** and **ADOPTED**, in concurrence.

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

Off Record Remarks

Divided Report

The Majority of the Committee on **NATURAL RESOURCES** on Bill "An Act to Exempt the State from the Mandatory Use of Reformulated Fuel" (Emergency)
H.P. 274 L.D. 376

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

Signed:

Senators:

LORD of York
RUHLIN of Penobscot

Representatives:

GOULD of Greenville
POULIN of Oakland
SAXL of Bangor
BERRY of Livermore
SHIAH of Bowdoinham
DAMREN of Belgrade
NICKERSON of Turner
MARSHALL of Eliot
MERES of Norridgewock

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-517).**

Signed:

Senator:

HATHAWAY of York

Representative:

GREENLAW of Standish

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

Which Reports were **READ.**

Senator LORD of York moved that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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

Senator **HATHAWAY:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. Truth is beauty, beauty truth, that's all you know on this earth and all you need to know. That was the answer I gave last November when my Republican colleagues asked me, "John, what is important to you at the end of the session, when things wind down but tempers start to flare?" I said, "Truth." I think we find truth by asking questions, by demanding answers. In the last few months, as we have talked about this issue, I have asked many questions. I have received few answers. At times I have been ridiculed and ruled out of order for asking too many questions. I would like to remind everybody, when this issue first arose three years ago in this Legislature, that

Representative Jim Mitchell reminded everyone that not enough questions had been asked at that time to vote on emissions. Well, I certainly think that we haven't asked enough questions, and we haven't gotten enough answers to allow the MTB's in RFG to be peddled to the people of Maine. In the last three months we have heard from major industries, the EPA, and the DEP on one side. We have heard from hundreds and thousands of real Maine people on the other side. I would like to review with you just a few of the things that I have learned, some of the questions I have asked, some of the answers I have gotten, and some that I haven't gotten. We need these answers before we make the decision to accept what has been termed the least worst solution, the least worst solution for the people of the State of Maine.

I am for clean air. I can remember, as a child, when I would wake up in the middle of the night with asthma. I couldn't breathe. I would come down stairs and my mother would boil a pot of water so I could breathe the steam so that I could breathe and go back to sleep. I can appreciate those discussions on this issue, but I can also appreciate the fact that the Clean Air Act may be a law that is flawed. As you know, I have five children. I want them to be able to enjoy Maine the way that I did when I grew up. But, I know, like many of you who have children, you go home at the end of the day, sometimes late at night, and you wonder why do you spend so much time here, why do you give up the time that you could spend with your children? Last Friday night when I got home, around ten o'clock, for my daughter's eighth birthday, we sat around at ten o'clock at night, my kids were still up, for a little birthday party. I wondered that same thing. What sacrifice. Then I think of earlier in that day, when I walked through the Rotunda, and I looked up at the picture and met the eyes of a former Governor, one who I always admired because he dared to stand up, to stand tall, and to stand firm. Now, I know someone may stand up and say, "Jim Longley was a friend of mine, and John, you're no Jim Longley." I will tell you one thing we had in common, and that is we both want to leave the same legacy for our children in this State. So, for you who have children, I'm going to ask you please, just to listen for a few minutes.

First, we need to define the problem for which we are trying to find a solution. We know from the EPA that 92% of our ozone in the State of Maine is created by biogenics, which is our trees. We know that 10% of the cars in this country cause 50% of our problem. We know that 60% to 90%, and in fact, testimony shows that maybe 100% in Kittery is caused by prevailing winds that come from the south. We know that Sagadahoc and York Counties were in non-attainment for one day in 1994, and remain the only counties in non-attainment in this State. We know that York County was in non-compliance for only two hours of one day in 1994. We know that our air quality has improved dramatically in the last six years, even without reformulated gas, the EPA shows us this. I know we discussed once before about bad air days in Maine. Certainly, last Monday when it was 100 degrees, one would think that if ever ozone were going to be created in this State, it would have been on that hot day, but because we had a wind coming from the west, blowing across Maine, rather than one coming from the south, blowing ozone from

states to the south of us, we were still in attainment. Again, Representative Mitchell had questions. He expressed frustrations with DEP's inability to answer questions about the program three years ago. "Every time you ask," Mitchell said, "DEP said, 'We haven't had time to figure that out, but we do want the authority to do it'." It's still true today. Recent testimony by DEP, transport of airborne emissions, wind blows air pollution from one state to another, the purpose of the ozone transport region is to require states affected by transport to work together to devise strategies to address the phenomenon, to come up with strategies that, if adopted regionally, would reduce the pollution in the region and enable individual states to meet the requirements of the act. These strategies level cost on Mainer's and cause confusion. The confusion comes because we have learned from meteorologists that Maine is downwind of major sources of pollution in other states. We are at the end of the pipeline. Yet we face earlier attainment deadlines than more severely polluted upwind states. Even more frustrating is the fact that we do not yet have the modeling results which tell us how much of the problem Maine is causing, and how effective our control strategies will be in addressing the problem. Questions just last week couldn't be answered by DEP and EPA. What percent is our ozone to the total? How much is made in Maine? "Who knows," was the answer. Yet we have tests that show that the MTB, which is in the reformulated gas, not only increases the nox emissions, which is part of what creates ozone, by 5%. It increases nox by 5%. Yes, it lowers the benzene by 1/2%, but it increases the formaldehyde by 10%. When it was tested for air quality, there was no significant effect of MTBE addition on peak ozone. As I have said, many people have contacted me in the last few months. Unsolicited information has come across my desk. People are very angry. One sent me a copy of a letter they received from the Administration. Testing of automobile emissions is not the answer, I believe the technology is flawed and the financial burden is unreasonable on Maine people. I would submit that the same holds true for the least worst solution that is before us today. Opting out of the Ozone Transport Region, those counties already in compliance with the federal standard, the process has begun. What I have proposed is a plan that enables us to achieve the 15% reduction in BOC emissions required by the federal government, while providing us with the time to establish the case that perhaps we should not be doing this at all, especially in those counties that are in attainment with Clean Air Act requirements. I'm glad to read that, because the fact is that it's not needed in our attainment areas, which is fourteen out of sixteen counties in this State. Summary of the major Ozone Transport Region requirements and the effects of opt-out. No Ozone Transport Region in attainment, no requirements. Revised memo from DEP, the Department has documentation that areas number two and number three have been below the standard for three years. The Department has requested EPA to redesignate these areas attainment. In a 10 May, 1995 memo, the EPA notified the states that areas in attainment will not have to furnish a 15% plan. Therefore, the enclosed plan is for planning area number one only, a question that has been raised many times, an answer. From the EPA, the EPA is proceeding with final rulemaking to

acknowledge that Lewiston and Auburn, Maine and Knox and Lincoln Counties Maine, areas have three years of air quality data, meeting the national ambient air quality standard for ozone. Our regional administrator has signed these determinations on May 24, 1995. Once EPA's determination is final, the 15% plan will no longer be required. This will take effect in two weeks. It's amazing to me that every time a question is asked, it's only answered by somebody outside of our government. We have been subjected, and the people of the State of Maine have been subjected, in the last few weeks to one of the biggest propaganda lobbying efforts that I have ever witnessed. Hundred of thousands of dollars have been spent to convince people that this is the solution for the problem. Somewhere in that effort we forgot to listen to the real Maine people that came here by the hundreds, that called us by the hundreds, to tell us a different story.

I would like to read to you a little bit from David Dixon, of Earth Tech, in Portland, Maine. "Seventeen hundred of our middle professionals serving private and government clients from forty offices coast to coast assist the role of atmospheric transport of ozone as precursors relating to existing non-attainment designations in south coastal areas of Maine. I helped to prepare Maine's first state implementation plan in response to the 1970 Clean Air Act. I set up the Portland areas first ambient air monitoring network. The sources causing the problems are hundreds of miles away from the areas measuring air quality problems. The Clean Air Act should focus attentions on reducing emissions contributing to the problem, rather than instituting unnecessary programs in areas where additional control will not directly lead to air quality improvement in problem areas." As I mentioned, ozone formation, which there has been a lot of question about, ozone is not emitted directly to the atmosphere. It is formed and destroyed by complex chemical reactions involving emissions of nitrogen oxide, which is nox's, and BOC's. Ambient ozone concentrations depend on not only emissions of its precursors, but also temperature, sunlight, and other weather conditions. As I said, the RFG increases the nox 5%. Emission inventories for BOC's and nox throughout the New England urban airshed model domain, as is being used for the 1988 episodes, which, by the way, were the hottest days in that July in 1988, which we are using as our base, the hottest days in twenty-five years, these figures clearly show that the density of emissions of both BOC's and nox are related to the population density of the region. The surface nox emissions are dominated by mobile sources. The July 8 episode is characteristic of typical ozone episodes in the northeast, where atmospheric flow is generally from the southwest to the northeast associated with circulation around the back of a high pressure system called a Bermuda High coming from the south. Ambient air quality standard violations typically occur when the air mass stagnates over large metropolitan area so the successive days of emissions adds to the mixing pot. The downwind areas often do not control their own destiny since the ozone is being transported from areas upwind. It is the fundamental flaw in the Clean Air Act amendment from Maine's perspective. As a downwind receiving area we cannot come into compliance until upwind areas have reduced precursors sufficiently to provide complying air

quality entering our border. Directly upwind of Maine are serious non-attainment areas of southern New England, with a 1999 attainment date, and further upwind are the severe non-attainment areas of New York and New Jersey, with an attainment date of 2007.

I want to mention, briefly, the fact of opting out of the Ozone Transport Region, which, as I mentioned, would alleviate us of these requirements. The only criteria stated by the Act is a demonstration that shows opting out "will not significantly contribute to the attainment of the standard in any area in the region." That's all we have to prove to opt out. A memo on September 1, 1994, from the EPA provides the flexibility for the only two counties that we have left that are not in attainment, and could be opted out. There has been a lot of talk about modeling. Computer modeling and finding out exactly where the ozone problem comes from and how much of it actually belongs here and is started here in the State of Maine. The EPA comment last week was that modeling is too complicated, we don't have it done, we don't know if we can do it. Mr. Dixon asks, "How much control should be mandated before the scientific evidence is completed? Should states, like Maine, have to impose stringent controls with commensurate economic impacts, when it is likely that those controls will not help to achieve attainment?" As I said, the case in the State of Maine is very unique. We have sixteen counties, nine have been in attainment all along, four, as I mentioned, will soon be in attainment. Cumberland County is in attainment but is being held hostage. York and Sagadahoc were in non-attainment for one day. That's where we stand.

I want to mention this, Mr. Dixon goes on, "If one considers the hypothetical case of eliminating all of Maine's man-made BOC emissions, it is likely that southern coastal receptors would not show attainment. Even if we eliminated all of Maine's man-made BOC emissions. Similar model runs have actually shown that Massachusetts cannot achieve attainment by 1999, even with zero emissions in Massachusetts." The famous quote from EPA, Linda Murphy, "If we drove all the cars in Maine into the ocean, we still could not show attainment." 1990 base year BOC emissions inventories for the seven southwestern counties of Maine, with those used in New England domain to represent the 1988 episode, both represent conditions before the implementation of control measures required by the 1990 Clean Air Act amendments, before RFG. Maine's BOC emissions represent approximately 10% of the domain total. A closer look at BOC inventory for Maine reveals that approximately, as I mentioned, 92% of Maine's BOC emissions are attributed to biogenic sources, to trees. That means only 8% of Maine's 10% of the domain wide BOC emissions are possible to control. Only 3.32% are on-road sources. That means that what we are trying to do, the problem we are trying to solve right now, is 3/1000's of 1%, is the problem that we are trying to solve. How are we trying to do it? We have heard much testimony that people are getting less mileage. There are lots of tests that verify that, but one thing we all know is that we are paying now, probably eighteen cents more a gallon since the day that this plan was announced.

I mentioned to you earlier a test that showed

that the RFG had no significant decrease on the ozone level. We are asking our oil dealers to invest about \$10 million for Stage Two. We are going to ask our people on the turnpike to drive fifty-five. We are going to mandate the purchase of electric cars. Electric vehicles cost about \$10,000 more than the average brand new vehicle. The problem we have is with old vehicles, 10% of the vehicles we have on the road cause 50% of the problem. It's a wonder to me how someone that has an old vehicle, that's going to buy a new one, is going to be able to afford an extra \$10,000 to buy an electric vehicle. Even if they do, assuming they are going to buy a new car anyway, what significance does the electric vehicle have, what good is it going to do more than the new one? That's all part of the least worst solution. Most importantly about our least worst solution, is as of last week, we did not have a plan that reached our 15% reduction. Yes, we had our reformulated gas. Yes, we have asked industry to go above and beyond the call of duty, which they have. Which is approximately two-thirds of our 15%, which has already been completed, thanks to the efforts and investment of industry in this State. But, what you may not know, is because we haven't reached the 15% total yet, we are looking at our consumer products, which we also have to revise in order to reach the 15%. The latest way that we are going to reach 15% reduction, not just reformulated gas, but now it's reformulated windshield wiper fluid. I want everybody to remember that. That's our key today. We are going to reformulate windshield wiper fluid to try to reach 15%. Will mouthwash be next? We are told that there is too much alcohol in the windshield wiper fluid, we need to take it out. At the same time we are being asked to put more alcohol into our gasoline.

I want to talk, briefly, about opting out, which I mention briefly because I think there has been a lot of misinformation. Mr. Devilla is the Regional Administrator of EPA Region 1 has erroneously stated that non-attainment areas, such as York, Cumberland and Sagadahoc, are not eligible to opt out under the above cited standard, which is the legal standard shown in the federal law to opt out. This view is patently false. The only issue is whether Maine sources of pollution "significantly contribute to non-attainment in other areas outside of Maine." Recent guidance from EPA headquarters does not support Mr. Devilla's view of the legal standard. In the State of Maine we are surrounded by Canada, which doesn't come under the Clean Air Act. Close by is Vermont, which is in attainment, and New Hampshire, which as we have shown on our little sheets, the only times we were in non-attainment is when we have that wind from the south. There is nothing to prove that the ozone in Maine in any way significantly contributes to the ozone in New Hampshire. If we were to carry forth and to opt out all of the fourteen that are in attainment, and the last two remaining counties, we would offer industry several benefits. They would have to incur fewer costs for permitting, and less pollution control technology. We would have no INM program, which right now we are going to have to have in Portland in the next eighteen months. We would have no low-emission vehicles, the electric vehicles. And it would be easier for us to delay the two-to-one offset, if that were ever to occur. Above and beyond that, we would

no longer be responsible for the 1.15-to-1 offset, which industry now comes under.

My suggestion would be that instead of us spending our time at the Ozone Transport Region meetings, trying to convince the Governors of New Jersey and New York to do something good for the people of the State of Maine, at the loss of their own people, we should be in Washington, supporting one of the twenty-four bills that is in that delays the sanctions, that would help the State of Maine. I would like to also point out to you some very important issues. I would like to read this letter that a person in Maine sent to me. This was a letter that was sent to them after they requested the safety data sheets from the oil companies. It's a letter from the Maine Petroleum Association. "You requested that I forward a copy of the MSDS sheet to you on MTBE. Unfortunately, I am unable to obtain an MSDS on MTBE here in the State of Maine. That is because gasoline does not need to have an MSDS, and thus, gasoline that is labeled with MTBE does not have material safety data sheets." I was happy to inform this lady that I would be happy to send to her the copies that I have of the material safety data sheets. From Citgo, that shows that the health effects of RFG are twice that on their study of the old regular gasoline. From Chevron that says, "Testing has been limited. It is difficult to predict how our RFG will perform in every vehicle or situation because test programs operate in a relatively narrow environment. Fuel system seals and hoses may shrink, swell, or lose strength when exposed to RFG. This creates a potential for fuel leaks. There may be a change in the flammability. Cars mileage may be reduced. There may be a larger negative impact on mileage in the winter time. It will be harder to start your car in the winter time. O-rings and hoses could swell and weaken. This shrinking or swelling creates a potential for fuel system leaks. RFG may cause older vehicles to monitor or repair any leaks immediately without driving the vehicle. Fuel systems of non-automotive equipment, such as motorcycles, power boats, lawn and garden equipment and recreational vehicles may be affected by RFG, shrinking, swelling or weakening could cause fuel leaks. RFG may present a hazard which conventional gasoline does not." Mobil, fourteen major oil companies, a similar study, estimates of manufacturing costs, just for the gasoline alone, two to twelve cents a gallon higher. Some estimates show that it could go up to fifty cents a gallon. Further tests show that the gasoline contaminates motor oil. It will destabilize after thirty-six to forty days, solidifying into a gel that some drivers and mechanics have found clogging their fuel filters. Less mileage. Our tests show that fuel is causing problems where previously none existed. Gasoline left in colder temperatures coagulated more quickly. Gasoline in warmer temperatures tended to evaporate more quickly. So long as you drive in nothing but sixty degree weather you're okay.

I want to talk a little bit about sanctions. You may have seen the Portland Press Herald editorial. Mr. Devilla is talking about \$70 million in lost federal highway funds for Maine, and imposing the EPA sanctions. From the Attorney General's office, "I conclude that seeking now to opt out of OTR would

have no effect on the requirement that Maine submit a complete 15% plan. The requirement that Maine submit a 15% plan is legally unrelated to whether Maine is in the Ozone Transport Region. The Clean Air Act requires a 15% rate of progress plan for all areas which are in moderate non-attainment of the federal ozone standard, regardless of whether such areas are in the Ozone Transport Region." Several Maine counties, which are only two in fact, are in the area where the EPA has designated as being in moderate non-attainment. The EPA must impose sanctions if Maine has not submitted a 15% plan prior to that date. The first sanction which must be imposed is the two-to-one offset requirement. However, the Department of Transportation writes a letter that it's not \$70 million, but it in fact the amount of withholding would be \$15 million to \$20 million. Which to me is a pretty good investment since we are going to be charging the people of the State of Maine \$100 million extra a year to buy the gas. The fact is, in the Clean Air Act itself, it says if we do not have the plan, or if we are not in attainment, one of the sanctions referred to in the subsection of this section shall be selected by the administrator. So, it's not necessarily the fact that we have to have the two-to-one offset. We could have the \$15 million in highway funds instead.

Next, I would just like to review a little bit of what we found out in the last few months about the health effects of RFG. As you know, this plan has relied on two studies. The study done by Dr. Graham, the Director of the Bureau of Health for the State of Maine, and also the Wisconsin study. Dr. Graham writes last week, "I want to reiterate my position on the health issues associated with this fuel. Benzene and formaldehyde are among the most toxic constituents." As I said, benzene is down half a percent, formaldehyde is up 10% in the new gas. "MTB has not been classified as a human carcinogen, and none of the studies which have been conducted have shown a link to serious human health problems." I will dispute that in a minute. MTB in ground water is a concern. The fact is, in Colorado they have outlawed the MTBE's because it has contaminated their ground water. "Neither the assessment conducted by the Health Task Force, which I chaired, nor Wisconsin's recently completed study of health symptoms, have found a basis for banning the sale of gasoline. I believe there is the potential for long-term positive health effects." When I questioned Dr. Graham about her study, she said she did not have enough time to do a thorough study, that she was relying on the Wisconsin study that came out. Her conclusions, MTB, RFG, a modest potential for long-term positive health impacts. A population subset with specific sensitivity to MTBE's cannot be ruled out. Air sampling data for gasoline vapors is quite limited. A basic surveillance program is needed. The Wisconsin study, Department of Health, "Gasoline vapors are known to cause health problems. DOH recommends that exposure to these vapors should be avoided. The study demonstrated that individuals in the Milwaukee area reported an increase prevalence of symptoms. Because of the limitations of the study, it does not rule out, some individuals may have a greater sensitivity to RFG mixtures." In fact, the Wisconsin study was done in two months this year, and in actuality was a random, digit dial health survey. It called people randomly, on the

telephone, to ask them how they felt after only two months of exposure to MTBE's. In fact, there have been no studies, as this list that you got points out, regarding exposure to MTBE's and elation exposure and so on. However, the oil chemical in Atomic Workers International Union, the AFL-CIO, writes, "The oil industry is grossly negligent in its failure to test for and inform workers and consumers about the toxicity of this product, MTBE. The benefits to the environment you cite are marginal, at best. No reduction in carbon monoxide levels were observed in Alaska, New Jersey and North Carolina, where MTBE was mandated. No significant reduction in benzene levels in human blood. However, highly significant increases in blood levels of MTBE were recorded." The American Medical Association recognized at its annual meeting in June 1994, passed a resolution calling for a moratorium on the use of MTBE's, calling it a "serious public health problem". Dr. Melman, who testified in New Jersey, who has testified and worked for the EPA previously, stated that "MTBE's must be adequately tested by accepted scientific methodology prior to its addition in gasoline. The oil industry was grossly negligent by not adequately testing for the toxicity of MTBE. It could impair the health of millions of residents in the State of New Jersey. Studies referred to by oil companies do not support the safety of MTBE." In 1991, as an expert for the EPA, to review the aforesaid study submitted to the agency by the oil companies. Analysis of current studies establishes the following facts: MTB is a serious poison, it causes cancer, it causes neurotoxic symptoms, it causes respiratory and allergic illnesses. MTB does not help the environment. MTB in gasoline makes people ill.

Another letter that you have from Dr. Melman states that MTBE causes cancer, is proven to cause cancer in animals and is a probable carcinogenic in people. It's a presumptive carcinogenic risk to some humans, even in the absent of confirmatory epidemiological data. "There were no adequate studies to support this safety of MTBE" he writes, "It is apparent that there has been deliberate experimentation on unknowing and unsuspecting citizens of our country." In a letter to Carol Browner he writes, "There is now sufficient and clear scientific evidence, MTBE is a probable human carcinogen, and a proven animal carcinogen. The EPA was misled in classifying MTBE as a possible, instead of probable, carcinogen." There are several other people that I could list. The fact that the study in Alaska resulted in the fact that MTBE was banned in Alaska. That Colorado, after studying it, banned MTBE because it contaminated their drinking water. The village of Liberty, located in Sullivan County, New York, at least twelve confirmed cases of lymphoma cancer, and now leukemias are beginning to become manifest. MTBE has contaminated the majority of the wells in this little town because of an in-ground gasoline storage tank rupture in 1990. In less than five years, a quiet little town has turned into a major cancer cluster. The citizens of this town are terrified. Scarborough, Maine, a gentleman who has been working with this for just a few months in his garage, his formaldehyde, which is proven to cause cancer, has gone from normal levels to very highly abnormal levels in a matter of months. We have several more of these reports coming in. People now

are just being tested. My point is there are still many questions still to be answered. Before we allow the people of Maine to be exposed to the MTBE's, we should ask those questions, we should find the answers.

One last point I would like to make. I mentioned before that this was probably one of the costliest of lobbying efforts that I have ever seen. It disturbs me greatly that we are not listening to the people of the State of Maine. The Breathe Clean Coalition, formed by AARCO Chemical Company, sent letters to households this week extolling the virtues of reformulated gasoline. "I certainly never authorized my name to be on that letter head," says Evelyn Smith. AARCO hired a consultant locally, National Grassroots Communications. One Maine citizen writes, "Recent radio commercials about RFG attempt to intimidate us. We may face mandated carpools and require no-drive days. Don't worry, call 1-800-GOTORFG. I called it. It's an office in Washington, D.C. One week the answering machine identified itself as the Clean Air Coalition. This past week it was the National Reformulated Gasoline Hotline. Who is it really?" A letter sent out by Dana Connors, as the King Transition Team Chairman. I asked him about it, I suggest you do. Another Maine voter writes, "I was approached by someone from the Breathe Clean Coalition, asking me to support reformulated gas. If I would write a letter in support of RFG, she said she would send it for me to ten newspapers around Maine. Something bugged me. Who was the Breathe Clean Coalition? So, I asked her how the coalition is funded. She said its grassroots. I assumed that Mainer's, fed up with the fuss over emissions testing, were rising in support of RFG. No, that wasn't quite it. Grassroots, she told me, is a company in Virginia. This coalition is a work of National Grassroots Communications, hired by AARCO Chemical to help Governor King achieve clean air goals and combat misinformation." I just think it's very sad, when we have hundreds of people in the State of Maine who have expressed their concern and their interest on this subject, yet we decide our vote on the threats of sanctions, the threats of Stage Two going statewide, business shutdowns. I think it's shameful.

A least worst solution is not the one that I want for my children. As someone said to me yesterday, "This whole mess is like deja vu all over again." The big lobbyists, the big industry, against the real Maine people. Thomas Jefferson said "If we relied on federal government to tell us when to sow and when to reap, we would soon be without bread." You have been very patient. I appreciate the opportunity. I just hope that you will stand up with me. Stand tall, stand firm for the real people of this State who have spoken out but who have not been listened to. I hope that when you vote, you will think of your children, the time you spend away from them and why you do it. This is why you do it. I hope that you think of this vote as just one small whisper into their ear, telling them that you love them. So, I urge you to vote against this motion. Thank you.

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

Senator **LORD:** Thank you, Mr. President. I'll

try to be a little briefer. First of all, I would like to quote from a letter I received, and I think you have a copy also on your desks, from Jeff Pidot on June 22 of this year. It states, "Pursuant to section 182B of the Clean Air Act, Maine was required to submit a 15% rate of progress plan by November 15, 1993. Maine failed to submit the required 15% plan. In January, 1994, the eighteen month mandatory sanction clock started, and the EPA must impose sanctions beginning on July 27, 1995, if Maine has not submitted a complete 15% plan prior to this date. As you know, the first sanction which must be imposed is the two-to-one offset requirement." The two-to-one offset means that any new industry, or industry that wishes to expand, would take out, from somewhere, two pounds of pollution before they can put one back into the atmosphere. I just received, this morning, a letter from Washington. It says, "Dear Senator Lord, I'm happy to enclose a copy of the latest MFG Bulletin, discussing the June 7th hearing held before the House Subcommittee on Investigations and Oversight of the Commerce Committee. The hearing was chaired by Representative Joe Barton, Democrat of Texas, focused on the benefits of reformulated gas and implementation of the federal reformulated gasoline program. The federal RFG program, which began January 1, 1995, and there are seventeen states and the District of Columbia already has resulted in the cost reduction of over 1 billion pounds of air pollution and air toxins." I wish I had a chance to send this to you, but I got it this morning. You can see that every month, from the month of January, that these toxins have been reduced a monthly average of 196,500 pounds. That's what RFG is doing. I'd like to go back a little bit to Wisconsin, everybody thought when the Wisconsin report came out it was going to favor getting rid of RFG. It didn't. I would like to quote a couple of paragraphs from that. "The study does not support the conclusion that the exposure to RFG is associated with widespread or serious, acute health affects in Milwaukee. However, gasoline vapors are known to cause health problems and the Department recommends exposure to these vapors, whether from traditional or reformulated gasoline, should be avoided." Not only RFG, but regular gas. We all know that regular gas is just as poison as RFG. "To demonstrate the individuals in the Milwaukee area reported an increased prevalence of symptoms, however, no such increase was seen in Chicago, a city which also uses RFG. The study did find that the people of Milwaukee were more likely to report symptoms if they had a cold, or the flu, smoked cigarettes, or were aware of RFG." So that's that.

Now, let's go to Dr. Graham's report. This is a letter dated the 22nd of this month. "RFG, MTBE gasoline has shown the results of lower levels of exposure to some of the most harmful contaminants in regular gasoline. The overall level of toxins in the fuel must be 50% lower. The human health benefits associated with this are quite significant." That's from Lani Graham. Last of all, I would like to quote you something. These were samples of a wells that were taken in the Cabbage Hill section of North Berwick, Maine in July 1986. One well, plume hot spot at water table, gasoline, parts per billion, 304,069, MTBE, 236,250. Folks, this isn't anything new in the State of Maine. We have had it since way

back along, 1986. Now, do I like this gasoline? No, I don't. I don't like it any more than the rest of you do. But what we did here, we had two options in regard to get this 15% plan. We could have used car test, and by a vote of thirty-two to nothing we threw it out. That left us one option, and that was RFG. We need this to get the 15% plan and I challenge anybody in this Senate, if they can come up with a substitute please tell me, and I will vote for it. We haven't got it, we can't get it, and as far as the State's, we've got exempt up to 1 million gallons. Any service station that sells over 1 million gallons will have to put it on and that's 54 stations in the whole State of Maine. I urge you to vote for the pending motion. Thank you.

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

Senator **HATHAWAY:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I would just like to comment on the comments about the Wisconsin study and the Maine studies. First of all, they both suggest that the MTBE's are dangerous and that we should have vapor recovery systems all across the State. I just want you to keep that in mind. They also suggest if RFG is so good it should be all across the State. I want you to keep that in mind. I want you also to remember that the Wisconsin study was a telephone survey. If you want to rely on a telephone survey on a poison that has only been sold here for about two or three months, that we know causes cancer, that's your decision. I think we should wait and study it further. Maybe we have MTBE's in our ground water. It doesn't mean we need more of it. Colorado didn't want any more of it. It's water soluble. Once it gets contaminated, it's almost impossible to get rid of. If you live in Portland and you want the boats running around on Sebago Lake with MTB's being pumped in all day long, this is your chance. I will take the good Senator up on his challenge. There is a third alternative. Fourteen out of sixteen counties are in attainment. The two remaining ones can be reclassified due to rural transport. We could opt out the whole state, both from the Ozone Transport Region and the 15% plan. We could do it right now if we wanted to. That's what I suggest that we do. Thank you.

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

Senator **CAREY:** Thank you, Mr. President, Members of the Senate. We spent, thirteen of us, all of last summer looking at CarTest, alternatives to it and everything. I'm in possession of a report that was given to the State of Alaska in December of 1992. I think a key here is there were people up in Alaska who were getting sick, but the level of MTBE's in the gasoline was 15.06%. They sent some of this gasoline down to Atlanta, and they found that it was much too high a level. The gas that is now being distributed is down at the 11% level, which appears to satisfy at least the communicable disease center, down in Atlanta. We would have liked to go to roadside testing, and then have cars go in, but we obviously were abolished before that happened. But, the Governor, upon getting this report from his Department of Health, suspended the sale, up in Alaska, of the reformulated gasoline. Whether they

have it now or not, I don't know. In January of 1995, in my slight agreement with the Senator from York, Senator Hathaway, there are mandated areas of Baltimore, Chicago, Hartford, Houston, Los Angeles, Milwaukee, New York City, Philadelphia and San Diego. Those are mandated areas. Voluntary areas are Connecticut, Delaware, District of Columbia, Kentucky, and in Maine, Lewiston, Portland, Bar Harbor, Lincoln County and Knox County. So, somewhere along the line we may have been done in by our own DEP, who, for some reason, can't even address a time schedule which is already some fourteen months overdue. As far as vapor recovery, I find that a laugh, because you will capture the vapors coming out of your tank as you are putting gasoline in, and it will go back into the big underground gas tank, and if you look somewhere near the station, you will see some pipes coming out of the ground. Those are pipes that are venting the 10,000 gallon tanks. So, that's kind of a fiasco.

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

Senator **HARRIMAN:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I remember, growing up in Yarmouth, where I still live, that there used to be a chicken processing operation, where they literally dropped into the Royal River, the chicken parts and refuse from that facility. I grew up on a street called Newell Road, which was kind of down in a little bit of a valley, and I would walk up to the top of the hill to catch the bus, and have the stench from the chicken factory literally stifle my ability to breathe. On my street there used to be open ditches, and who knows what was flowing in those ditches as we played marbles and baseball. I remember, we used to have an open burning dump, where people came and threw literally anything and everything away. It coincidentally happened to be located by the Sandy River Brook. Indeed, over the years Maine has come a long way. We should be very proud of ourselves. We have actively changed our habits. Our air is cleaner, we have capped our stump dumps. There are no more log drives. Sewer treatment facilities are meeting the needs of our communities and industry, and we continue to look at ways to improve our quality of life and our environment. I believe, like you, that many people want clean air. I'm confident that Maine people will do their part to clean up Maine's air, so long as it's fair, it's affordable, and results in measurable, identifiable changes in air quality. So, I ask you, is this proposed plan fair? Is it fair to pit one community against another, or one industry against another? Let me ask you this, if one of our major industries in this State, whether it was a paper producer or a food processor or a drinking water producer, if they had changed their chemical mix and increased their emissions of formaldehyde by 10%, don't you think that this would be a major subject of legislative investigation? So, why is it okay for a government agency to mandate that we do this, when perhaps we wouldn't allow someone in our private economy to do the same? So, I ask you, is this plan affordable? Does it make sense to you that we would see the price of gasoline rise, and have less mileage? Does it make sense to you that we would have one section of our state be automatically opted out and the northern nine counties don't file a

plan, don't do the paperwork, don't go through the rigorous tests? Does it make sense to you that the other four miraculously are now in attainment, leaving only the three counties in southern Maine? So, I ask you, is this plan that we are being asked to do going to produce measurable, identifiable results? I would say, based on the comments of my good friend from York, Senator Hathaway, that the answer is probably no.

I think it's long past the time when we put the political gamesmanship aside and work on a plan that will produce measurable, identifiable results, that is fair to all of Maine's citizens, that is affordable by all of Maine's citizens, that will produce measurable and identifiable results. Ladies and Gentlemen of the Senate, what I have seen is that we have been held hostage and that the State of Maine has bought into the EPA regulatory terrorism that is unfolding. What I have seen is us chasing after bureaucratic red tape and paper, to go file a plan, a blueprint, that we couldn't build in reality. I think it's time for us to step back, because we all want clean air, we're all willing to do our part, but let's do it in a way that's fair, affordable, and produces results. What I have seen is rather than a government in Washington of the people, by the people, and for the people, we have an EPA that is a government-run organization coming at the people. It's time to stand up and be counted. Thank you.

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

Senator **MILLS:** Thank you, Mr. President, Men and Women of the Senate. The rhetoric that surrounds this issue seems to me much more highest than the problem presenting itself this morning. One of the neat things about the implementation of the RFG solution, as opposed to the CarTest solution to our compliance with the federal clean air law, is that it's a completely reversible decision. If it turns out that everything that has been said about MBTE this morning is true, that it is everything that has been said against it, if it's a poison that is more toxic than gasoline itself, or what have you. If the EPA, for some reason, changes its mind and permits the State of Maine to withdraw from the Ozone Transport Region. If we are allowed to take the southern three counties out of consideration as non-attainment areas, then all we have to do is replace the RFG that's in the tanks down there with regular gasoline and we're back to operation as normal. This solution does not require that we do what we did do for the CarTest solution, which was to open up seven new locations, gas stations or what have you, where testing would be performed, and enter into long range contracts with heavy financial commitments. It just seems to me that this is a no-brainer. I don't know, I'm not a scientist myself, what I understand, and I think every kid knows this, gasoline itself is highly toxic. It's not something that you want to spend a warm summer afternoon sniffing, let alone drinking. MBTE is an alcoholic substance that is a derivative from corn. My understanding of the health evaluations of MBTE is that it is less toxic, by far, than the substance that exists in gasoline itself.

In regard to the state of the law, I spent a

little bit of time reading this Clean Air Act to see if I could comprehend it. It's a small part of this book that I am holding, which contains 1,200,00 words, by my estimate. This is the entire compendium of federal environmental laws produced by the federal government that are currently in effect. It may be true that we have too many federal regulations and too many federal environmental laws, but I don't think that that's the debate today. The debate is, does Maine, which is a major beneficiary of efforts to control ozone, does Maine also, to some extent, have to participate in solving the problem that everyone acknowledges to exist in the northeastern United States? It may be true that we can submit an application to withdraw from the ozone transport zone, but this law could not be clearer, that withdrawal from the ozone transport zone does not release us from the obligation of complying with the requirements that are imposed because several of our counties are in non-attainment. It is true that those southern three counties are only in moderate non-attainment. In some ways we are very fortunate that the southern towns of Maine; Kittery, York, Wells, Ogunquit; we're very fortunate that those towns were not swept up into the Portsmouth region, because Portsmouth is a serious non-attainment zone, where the remedies that are being applied are more significant. My reading of the law, as it is presently worded, to me means that it is impossible at this juncture for Maine simply to ignore the threat of federal sanctions if we do not comply with the requirements that the EPA is setting forth for us. There are two sanctions which the EPA can impose on the southern three counties if we fail to submit a 15% plan by the end of next month. One of them is that we can lose highway funds in that region. The other one, which is an alternative, is that every industry that wants to put another pound of pollutant into the air will have to figure out a way of withdrawing two pounds of existing pollution from that same source. This will put a severe damper on any plant that Pratt Whitney, or S. D. Warren, or any other industry in southern Maine may have for expansion. It's true that the EPA applies these sanctions in the alternative, according to the law. It may choose one or the other, but if there is a lack of good faith on the part of the State, in complying with the federal regulations, the Director of EPA may choose to apply both of them in tandem. I applaud the effort that is currently being made to see if Maine can be withdrawn from the Ozone Transport Region, but I think that's an entirely separate problem. Efforts to re-evaluate whether the southern three counties are truly in an attainment zone or a non-attainment zone should continue. In the meantime it would be economic and political folly for us to remove the RFG option from the choices that we have to comply with the Clean Air Act. I urge you to vote against the bill that is presently before you. Thank you.

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

Senator **LORD:** Thank you, Mr. President, my Learned Colleagues. First of all, the Stage Two requirement is only on certain stations in the southern county area, it's not the whole state. Number two, what's happening in the fall of 1996, when the 1997 models of cars come out, they are going

to have canisters on them, and those canisters are going to take the place to get rid of these fumes. So that should eliminate that problem. Mr. President, I would like to have a Roll Call if we may.

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

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

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: **ABROMSON, BEGLEY, BUSTIN, CAREY, CIANCHETTE, CLEVELAND, FAIRCLOTH, GOLDTHWAIT, LONGLEY, LORD, McCORMICK, MICHAUD, MILLS, PARADIS, RAND**

NAYS: Senators: **AMERO, BENOIT, BERUBE, CARPENTER, CASSIDY, ESTY, FERGUSON, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LAWRENCE, O'DEA, PENDEXTER, PINGREE, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND**

ABSENT: Senator: **RUHLIN**

Senator **CARPENTER** of York requested and received leave of the Senate to change his vote from **YEA** to **NAY**.

15 Senators having voted in the affirmative and 19 Senators having voted in the negative, with 1 Senator being absent, the motion of Senator **LORD** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **FAILED**.

The Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in **NON-CONCURRENCE**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-517) **READ** and **ADOPTED**.

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

Out of order and under suspension of the Rules, the Chair laid before the Senate the following Tabled Unassigned matter:

Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1996 and June 30, 1997" (EMERGENCY)
H.P. 516 L.D. 706

Tabled - June 13, 1995, by Senator KIEFFER of Aroostook.

Pending - FURTHER CONSIDERATION.

(In House, June 8, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-386) AS AMENDED BY HOUSE AMENDMENT "A" (H-402), thereto.)

(In Senate, June 12, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-387), in NON-CONCURRENCE.)

(In House, June 12, 1995, ADHERED.)

Senator KIEFFER of Aroostook moved that the Senate INSIST and ASK FOR A COMMITTEE OF CONFERENCE.

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

Senator LAWRENCE: Thank you, Mr. President, Men and Women of the Senate. Just for a brief explanation of what is going on. Because of the procedural standing of the biennial budget, it's necessary for us to Insist and ask for a Committee of Conference, and the House to do the same, so that the Committee of Conference could come back and propose the budget that was voted upon by the Appropriations Committee. That will allow us to vote on that proposal and make other changes. Otherwise, we would have to kill the bill and start all over again from scratch.

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

Senator CAREY: Thank you, Mr. President. I would like to pose a question. I would direct my question to the Minority Leader. Is it my understanding, or is my understanding correct that this has already been predisposed and determined and we are just going to follow the motions and, in fact, the Revisor's Office is already preparing a Committee of Conference Report? If the Minority Leader is unable, or refuses to answer, is there anyone else in this Chamber who can answer that question?

THE PRESIDENT: The Senator from Kennebec, Senator Carey, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator HANLEY: Could the good Senator from Kennebec, please restate his question?

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

Senator CAREY: The question simply was, is, in fact, the Revisor's Office already putting together a conference committee report? That, in fact, it's predisposed that we will be sending it down insisting? That, in fact, the other body, which I can't mention here, will in all probability agree with that? Then there will be two Committee's of Conference to discuss things and probably not agree to anything anyway?

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

Senator HANLEY: Thank you, Mr. President, Men and Women of the Senate. To respond to the question from the good Senator from Kennebec, I would differ as far as the outcome of the Committee of Conference. Based on a thirteen to zero, unanimous Appropriations Committee report. Having taxed my mental faculties, as far as my memory on when was the last time I was in the legislature and had an opportunity, on a part one budget, to vote for a unanimous committee report. I cannot remember that having taken place. A lot of work has been done, and although the spin doctors being who they are, and the treatment that they dispense in the halls of the State House, and having heard from members of the so-called conservative caucus, and members of other groups saying that this is a abhorrent budget, that there is no way in the world that they can support it, having heard that type of conversation from both parties, it would lead me to believe that maybe we have something here. If both sides are saying that this is the worst thing that has ever come along, that not only did the Republicans sell the Republicans out, but the Democrats sold the Democrats out, maybe once and for all a thirteen zero report out of Committee will mean something. I'm hopeful that when the Committee of Conference meets, that they will have an opportunity to review the work that the Appropriations Committee did and voted out unanimously on Friday. I'm in hopes that whoever serves on this Committee of Conference from this Chamber, as well as from the House, will bear that in mind as they put forward their own report.

Yes, to the other question that the good Senator raised. The work that was completed by the Appropriations Committee on Friday, is being put in the form of a Committee of Conference Report, but that can also be changed, depending on who serves on this Committee of Conference, and whatever fine tunings that they may wish to put in as well. I hope that answers the good Senator's questions.

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

Senator CAREY: Thank you, Mr. President. The answer that I received confirms the facts that I was given. I will support it, because the last thing we can do really, is kill this thing. We've got to keep it alive as long as we can, otherwise there will certainly be a shutdown.

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

Senator **LAWRENCE**: Thank you, Mr. President, Men and Women of the Senate. I really don't want to make this a big complicated issue. I don't know whether anything has been drafted for the Committee of Conference, but I do know that on Friday the Secretary of the Senate, and the Clerk of the House, met to talk procedurally about what could be done at this point. The House having adhered on this bill. My understanding is that it was decided, in speaking with the former Speaker of the House, that the Senate cannot recede at this point, to roll back the bill to do any type of changes to the bill. The Senate has three choices; to adhere, to insist, or to insist and ask for a Committee of Conference. If we insist or adhere the bill dies. The only way we can keep the bill alive is to insist and ask for a Committee of Conference. Should the House join with us, then the Committee of Conference would be able to report out the report voted on by the Appropriations Committee if they wanted to. Otherwise the bill dies and we have to start all over with a whole new bill.

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

Senator **CAREY**: Thank you, Mr. President. I am reasonably familiar with parliamentary procedure, but I know there are others in here who would certainly appreciate that explanation. Thank you.

On motion by Senator **KIEFFER** of Aroostook, the Senate **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.

Sent down for concurrence.

THE PRESIDENT: In reference to the action of the Senate earlier in the day, whereby it **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE** on Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1996 and June 30, 1997" (Emergency) (H.P. 516 L.D. 706)

Under suspension of the Rules, the Chair appointed as conferees on the part of the Senate:

Senator **HANLEY** of Oxford.
Senator **AMERO** of Cumberland.
Senator **BUSTIN** of Kennebec.

Senate at Ease

Senate called to order by the President.

HELD BILL

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

Senator **BERUBE**: Mr. President, is the Senate in possession of "An Act to Create the Northern New England Passenger Rail Authority" S.P. 459 L.D. 1255?

THE PRESIDENT: The Chair would answer in the affirmative. The Bill having been held at the Senator's request.

On motion by Senator **BERUBE** of Androscoggin, the Senate **RECONSIDERED** its action whereby it **FAILED OF ENACTMENT**, in **NON-CONCURRENCE**:

An Act to Create the Northern New England Passenger Rail Authority (Emergency)
S.P. 459 L.D. 1255
(C "A" S-202)

(In House, June 22, 1995, **PASSED TO BE ENACTED**.)

(In Senate, June 23, 1995, **FAILED OF ENACTMENT**, in **NON-CONCURRENCE**.)

On further motion by the same Senator, Tabled until Later in Today's Session, pending **ENACTMENT**.

Senator **LAWRENCE** of York was granted unanimous consent to address the Senate off the Record.

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

Under suspension of the Rules, all matters thus acted upon, with the exception of those matters having been held, were ordered sent forthwith.

On motion by Senator **CARPENTER** of York, **RECESSED** until 1 o'clock this afternoon.

After Recess

Senate called to order by the President.

Divided Report

The Majority of the Committee on **NATURAL RESOURCES** on Bill "An Act to Require Notification to the Landowner When Land Is Being Considered for Placement in a Resource Protection Zone"

H.P. 609 L.D. 819

Reported that the same **Ought to Pass as Amended** by Committee Amendment "A" (H-492).

Signed:

Senators:

LORD of York
RUHLIN of Penobscot
HATHAWAY of York

Representatives:

GOULD of Greenville
SAXL of Bangor
BERRY of Livermore
MERES of Norridgewock
SHIAH of Bowdoinham
GREENLAW of Standish
DAMREN of Belgrade
NICKERSON of Turner
MARSHALL of Eliot

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

Signed:

Representative:

POULIN of Oakland

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-492) AS AMENDED BY HOUSE AMENDMENT "A" (H-574)**, thereto.

Which Reports were **READ**.

THE PRESIDENT moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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

Senator **McCORMICK:** Thank you, Mr. President, Men and Women of the Senate. I ask for a Division on this motion and I intend to vote no. I have been called by my selectmen on this bill who worry very much that it will cause them a great deal of expense

and put upon them yet another, and I stress another, requirement and mandate, and this would be a mandate, for notice to landowners who would fall inside a resource protection zone, above and beyond what they already do already, which is to put notices in the paper, post it, put two notices in the paper as I understand. The DEP didn't think that they had enough money to do this, so they didn't want to do it. So, it got shuffled off to the towns and I believe that the notice is adequate now and this would be way too much money for the towns. I urge you to vote no.

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

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

Senator **HALL:** Thank you, Mr. President, Ladies and Gentlemen. I will second the Senator from Kennebec that this is a mandate to the municipalities. If, obviously, most all of the Committee felt it was necessary to do this, and I really don't have a problem with that, but I do have a problem with mandates, and if this is such a good bill we should be willing to fund it. Therefore, I will be voting against the present motion.

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

Senator **LORD:** Thank you, Mr. President. I believe this problem of the cost is being fixed by the House Amendment, H-574. Why we felt people should have notification early, too many times people get notified that something is going to happen to their land at the last minute. We wanted to make sure that people are notified way ahead of time so they could present their case to the Planning Board or whoever has jurisdiction. That's the reason why we wanted the notification. We went around and around as far as how the notification should be, and I think what we initially wanted was for registered mail, then we figured the cost was too large so this amendment will change that. Thank you.

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

Senator **CLEVELAND:** Thank you, Mr. President, Men and Women of the Senate. I rise, as well, as a former municipal official, like many of you have been, to clarify that this bill, if it passed, is clearly a mandate on local government. It changes the process that is currently working. Municipalities must already notify individuals by first-class mail, which they are doing, if there is a change in zoning or regulation of the land. That process is occurring. This would require that they do it by certified mail. It would also require that everytime the state changed mandated shoreland zoning, which is required by the Department of Environmental Protection, that when the state made the change that the state would not pay for the notification, but that the municipality would have to pay for the notification, and further, the bill is unclear, legally, because it doesn't define when notice should be first given. The standard that's put forth there is when it is first considered, but

when who first considers it? When the DEP first considers it? How will the municipality know that? When who first considers it? When is it considered to be considered? For those reasons, I suggest to you that this bill ought not to pass, that it will increase costs to local municipalities, and if it is such a great idea, then let's not, one more time, have good ideas being paid for by the local folks, let us pay our share if it's a good idea. I would urge you to vote ought not to pass.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I rise to briefly offer my comments, which echo those of my colleagues. This would place a significant additional mandate on municipalities as far as the notice requirements. I urge you to defeat the motion on the floor.

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

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

Senator **RUHLIN:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. The bill that is presently before you, L.D. 819, is an act to provide proper notice to landholders of the State of Maine when their land is being considered to be put into a natural resource protection zone. Pure and simple. You own some land, the town is going to consider taking your land and zoning it in such a way, under the Natural Resources Protection Act, that it may alter the uses that you have planned on that land. So, the Committee, with the exception of one, twelve out of thirteen, felt that if that is the case, and it may very well be the best purpose, the least you can do is send a first-class stamped letter to the person who owns the land and say we are considering changing the zoning on your land from general purpose to natural resource protection. They call this a mandate. What a bunch of nonsense. A mandate? A mandate in what sense? Is it a mandate to give common good manners to your neighbor, to let them know that you are considering changing the way he's going to be able to use his land? We are talking here about a first-class stamp being called a mandate. Let's use some common sense here. That's no mandate, that's good common manners. That's just letting your neighbor know that you are considering altering the land use of his purpose. I hope, when you vote on this Roll Call, that you will give due consideration to property owners of this state, and protect their property values, and vote this ought to pass so they can have the proper notice to protect their land when changes are being considered. Thank you.

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

Senator **CLEVELAND:** Thank you, Mr. President. I would like to, once again, clarify a couple of points. This bill has on it a mandate preamble. If it's not a mandate it would not require a mandate

preamble. If you vote, and it gets two-thirds, it means any additional costs, and there will be some, will be imposed on the municipalities. Currently there is notification. No one takes exception to the fact there ought to be notification. Clearly, people ought to be notified, early and in enough time to participate in the process and have their comments done. That is currently accounted for in the law. A first-class notification by mail is currently required by law. This bill would change the language so that municipalities would have to send a certified letter, which is substantially more expensive than a first-class letter. There is a mandate preamble on it. If it wasn't a mandate, you wouldn't have that on there. I am simply asking you, please don't shift the cost to municipalities when they ought not to be bearing that additional cost.

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

Senator **CAREY:** Thank you, Mr. President, Members of the Senate. I speak as a municipal official. I'm a selectman in the town of Belgrade, as many of you know. What little cost it would take for the disruption of someone's life, the value of their property, and what have you, would be far outweighed by the cost of this thing. Therefore, I would like to let you know that the town of Belgrade does not even send out a first-class letter, so that might be of some interest. Most of our property that has any value at all, that gets involved with resource protection, is, in fact, owned by out-of-staters and we don't even let them know what's happening. They find out about it when they come in the following summer.

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Longley.

Senator **LONGEY:** Thank you, Mr. President, Colleagues in the Senate. I speak as a planning board member in my town. In the past when people have come and said, "Well, we didn't even know about this." I thought it was a legitimate request on their part to have due notice. It's part of their due process right of notice. Unless I am mistaken, and I would appreciate being corrected if I am wrong, it's not a certified letter that is required, it's a simple first-class letter. For those reasons, I will be voting for the bill as amended. Thank you.

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

Senator **RUHLIN:** Thank you, Mr. President. I would like to respond to the good Senator from Waldo. Her question is an excellent question. The Committee looked at it and discussed it at great length. We did not want to create a burden on the communities. We purposely kept it so the notification was a first-class letter, rather than certified mail, so that it would not become a burden to the communities. Thank you.

THE PRESIDENT: The pending question before the Senate is **ACCEPTANCE** of the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: ABROMSON, BENOIT, BERUBE,
BUSTIN, CAREY, CASSIDY,
CIANCHETTE, FAIRCLOTH, FERGUSON,
HATHAWAY, LAWRENCE, LONGLEY,
LORD, PINGREE, RAND, RUHLIN

NAYS: Senators: AMERO, BEGLEY, CARPENTER,
CLEVELAND, ESTY, GOLDTHWAIT,
HALL, HARRIMAN, KIEFFER,
McCORMICK, MICHAUD, MILLS,
O'DEA, PARADIS, PENDEXTER,
SMALL, STEVENS, and the
PRESIDENT, Senator BUTLAND

ABSENT: Senator: HANLEY

16 Senators having voted in the affirmative and
18 Senators having voted in the negative, with 1
Senator being absent, **ACCEPTANCE** of the Majority
UGHT TO PASS AS AMENDED Report, in concurrence,
FAILED.

The Minority **UGHT NOT TO PASS** Report **ACCEPTED**,
in **NON-CONCURRENCE**.

Sent down for concurrence.

Senate

Ought to Pass As Amended

Senator **MILLS** for the Committee on **JUDICIARY** on
Bill "An Act to Correct Errors and Inconsistencies in
the Laws of Maine" (Emergency)

S.P. 251 L.D. 648

Reported that the same **Ought to Pass as Amended**
by **Committee Amendment "A"** (S-332).

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-332) **READ** and **ADOPTED**.

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

Senator **BEGLEY** for the Committee on **LABOR** on Bill
"An Act Relating to the Retirement Benefits for the
Maine Warden Service"

S.P. 473 L.D. 1269

Reported that the same **Ought to Pass as Amended**
by **Committee Amendment "A"** (S-327).

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-327) **READ** and **ADOPTED**.

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

Senator **STEVENS, JR.** for the Committee on
TRANSPORTATION on Bill "An Act to Transfer Oversight
of Commercial Driver Education Programs to the
Secretary of State"

S.P. 477 L.D. 1301

Reported that the same **Ought to Pass as Amended**
by **Committee Amendment "A"** (S-331).

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-331) **READ** and **ADOPTED**.

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

Divided Report

The Majority of the Committee on **BANKING AND**
INSURANCE on Bill "An Act to Provide for the Creation
of a Health Insurance Purchasing Cooperative"

S.P. 539 L.D. 1477

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

Signed:

Senators:

ABROMSON of Cumberland
SMALL of Sagadahoc

Representatives:

CAMPBELL of Holden
GUERRETTE of Pittston
JONES, JR. of Pittsfield
LUMBRA of Bangor
MAYO, III of Bath
PAUL of Sanford

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-329).**

Signed:

Senator:

MCCORMICK of Kennebec

Representatives:

CHASE of China
GATES of Rockport
SAXL of Portland

Which Reports were **READ**.

Senator **ABROMSON** of Cumberland moved that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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

Senator **MCCORMICK:** Thank you, Mr. President, Men and Women of the Senate. I urge you to vote against the pending motion so that we can accept the minority ought to pass as amended report. This is a simple bill that puts in place a health care purchasing cooperative for small businesses. As you know, both nationally and in the State of Maine, we have said no to large scale, systematic, health insurance reform and health care reform that lowers the cost of health care. Still, the need is there. Health care costs, especially for small business, is 35% more than for large businesses. So, given that we have said no to large-scale systemic reform, what you have before you here is a small step towards lowering the cost to health care for small businesses. This basically would allow small businesses to form health care purchasing cooperatives and allow them to purchase health insurance and get the economy of scale savings that large companies; like UNUM, and BIW do. This legislation that is before you, if you were to vote no on the pending motion that is before you, is modeled on the National Association of Insurance Commissioners model on health care purchasing cooperatives and is a basic approach to lowering the cost of health insurance for small business. Thank you.

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

Senator **ABROMSON:** Thank you, Mr. President. This bill would create the State Purchasing Alliance Board, within the Bureau of Insurance. It carries a fiscal note for this year of \$313,000, and for 1996/1997 of \$400,000. In addition, the Bureau of Insurance, the Maine Medical Association, AARP, and a number of others have suggested that L.D. 1477 may be out of place at this time in that the Maine Health Care Reform Commission's final report is due in November. As part of its recommendations, the Commission will be submitting legislation by January 1 of 1996 and the concept of purchasing alliances is actively being considered. We did not really, in the Committee, go into the merits of purchasing alliances. They may, indeed, be something that

should be considered, but the Committee felt that it would be best to wait until after receiving the Maine Health Care Reform Commission's final report. Thank you.

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

Senator **MCCORMICK:** Thank you, Mr. President. I disagree with nothing that the good Senator from Cumberland, Senator Abromson, said, except for the timing. Absolutely, this report is going to be consistent with anything that comes, with any proposals that come from the Maine Health Insurance Reform Commission. The issue is how many years delay in instituting some kind of relief from health insurance costs are we going to allow our small businesses? The mere setting up and structuring of geographical areas within which health care purchasing cooperative will be working, and it is geographical in nature, will take about a year. If we wait, next year, as the good Senator is proposing, we are looking at two to three years time before any relief will be given to our small businesses in terms of cost control. So, I'm urging you to vote against the pending motion so that we can get a jump start on at least structuring our state and allowing this voluntary program, this is voluntary, there are no regulations involved in this voluntary ability for small businesses to save up to 35% on their health insurance costs.

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

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

On motion by Senator **ABROMSON** of Cumberland, Tabled until Later in Today's Session, pending the motion by the same Senator that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

Divided Report

The Majority of the Committee on **HUMAN RESOURCES** on Bill "An Act to Improve the AFDC Program"
S.P. 548 L.D. 1496

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-322).**

Signed:

Senator:

PINGREE of Knox

Representatives:

FITZPATRICK of Durham
JOHNSON of South Portland
SHIAH of Bowdoinham
ETNIER of Harpswell
MITCHELL of Portland
JONES of Bar Harbor

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (S-323).**

Signed:

Senators:

PENDEXTER of Cumberland
BENOIT of Franklin

Representatives:

JOYNER of Hollis
MARVIN of Cape Elizabeth
WINGLASS of Auburn
LOVETT of Scarborough

Which Reports were **READ.**

Senator **PENDEXTER** of Cumberland moved that the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-323)** Report.

On further motion by the same Senator, Tabled until Later in Today's Session, pending the motion by the same Senator that the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-323)** Report.

SECOND READERS

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

House

Bill "An Act to Authorize a Tax Anticipation Note for Fiscal Year 1995-96" (Emergency)
H.P. 1139 L.D. 1582

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

House As Amended

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$4,000,000 for Facilities Serving People with Mental Illness"
H.P. 313 L.D. 417
(C "A" H-581)

Bill "An Act to Conform Maine Law Related to Domestic Relations with Federal Law"
H.P. 568 L.D. 769
(C "A" H-590)

Bill "An Act to Strengthen Maine's Live Harness Racing Industry" (Emergency)

H.P. 619 L.D. 829
(H "B" H-580)

Bill "An Act to Clarify the Jurisdiction of the Passamaquoddy Tribal Court"

H.P. 944 L.D. 1333
(C "A" H-589)

Bill "An Act to Amend the Laws on Marital Property, to Provide for Alternative Dispute Resolution in Domestic Relation Matters and to Provide for the Recodification and Revision of the Maine Revised Statutes, Title 19" (Emergency)

H.P. 1024 L.D. 1439
(C "A" H-591)

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

Bill "An Act to Place a Spending Cap on State Senate and House Campaigns"

H.P. 322 L.D. 443
(C "A" H-520)

Which was **READ A SECOND TIME.**

On motion by Senator **LAWRENCE** of York, Senate Amendment "A" (S-324) **READ.**

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

Senator **HARRIMAN:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I wonder if the good Senator from York might explain a little bit about what this amendment does, since it replaces the bill? Thank you.

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

Senator **LAWRENCE:** Thank you, Mr. President, Men and Women of the Senate. I would be happy to answer that question. What this bill does is seek to cap House and Senate campaigns; Senate campaigns at \$30,000 and House campaigns at \$8,000. That's a voluntary cap that people enter into if they want to enter into it. They sign an affidavit if they are going to enter into it. If they break that limit then there is a penalty that goes on them for spending over that limit. That's briefly what it is.

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

Senator **KIEFFER:** Mr. President, I believe the Statement of Fact states that this amendment changes the title of the Bill to reflect the provision this

amendment decreases the voluntary expenditure limit for State Senator from \$30,000 to \$25,000 and decreases the expenditure limit for State Representative from \$7,500 to \$5,000. Are those figures in compliance with what I just heard?

Senate at Ease

Senate called to order by the President.

On motion by Senator KIEFFER of Aroostook, Tabled until Later in Today's Session, pending the motion by Senator LAWRENCE of York that the Senate ADOPT Senate Amendment "A" (S-324).

Bill "An Act to Expand Access to Medical Care by Encouraging Involvement of Retired Physicians, Podiatrists and Dentists"

H.P. 839 L.D. 1170
(S "A" S-319 and H
"A" H-493 to C "A"
H-319)

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

Sent down for concurrence.

Bill "An Act to Establish a Management Framework for the Lobster Fishery within State Waters"

H.P. 577 L.D. 782
(S "A" S-325 to C
"A" H-570)

Which was READ A SECOND TIME.

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

Senate As Amended

Bill "An Act Authorizing a General Fund Bond Issue in the Amount of \$15,000,000 to Expand Maine's Interactive Television System to Maine High Schools"

S.P. 171 L.D. 432
(C "A" S-308)

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

Sent down for concurrence.

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$20,000,000 for Landfill Closure and Remediation"

S.P. 147 L.D. 333
(S "A" S-318 to C
"A" S-306)

Which was READ A SECOND TIME.

On motion by Senator LORD of York, Tabled until Later in Today's Session, pending PASSAGE TO BE ENGROSSED AS AMENDED.

Under suspension of the Rules, all matters thus acted on, with the exception of those matters having been held, were ordered sent forthwith.

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

PAPER FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Reform the Process of Periodic Review of Programs and Agencies"

H.P. 959 L.D. 1348
(C "A" H-516)

In Senate, June 20, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-516), in concurrence.

Comes from the House, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-516) AS AMENDED BY HOUSE AMENDMENT "A" (H-598), thereto, in NON-CONCURRENCE.

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Create Uniformity in Laws Governing Various Professional Licensing Boards and Commissions"

H.P. 1102 L.D. 1549

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-592).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-592).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-592) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act Adopting the Uniform Health-care Decisions Act"

H.P. 182 L.D. 230

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-605).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-605).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-605) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act to Implement the Recommendations of the People with Disabilities Access Commission"

H.P. 837 L.D. 1168

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-604).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-604).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-604) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act to Reduce Theft in the Forest Products Industry"

H.P. 1065 L.D. 1500

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-612).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-612).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-612) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **NATURAL RESOURCES** on Bill "An Act to Amend the Emergency Planning and Community Right to Know Laws"

H.P. 1107 L.D. 1555

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-603).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-603).**

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-603) READ and ADOPTED, in concurrence.

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

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

PAPER FROM THE HOUSE

Non-concurrent Matter

Resolve, Authorizing Glen Greenhalgh to Sue the State of Maine and the Department of Human Services
H.P. 786 L.D. 1103

In House, June 23, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-355).

In Senate, June 23, 1995, the Majority OUGHT NOT TO PASS Report READ and ACCEPTED, in NON-CONCURRENCE.

Comes from the House, that Body having ADHERED.

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

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

SECOND READERS

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

House As Amended

Bill "An Act to Amend the Laws Regarding Child Placing Agency Disclosure of a Child's Background for the Purpose of Adoption"

H.P. 1080 L.D. 1522
(C "A" H-596)

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

Bill "An Act Regarding Unredeemed Deposits on Beverage Containers"

H.P. 506 L.D. 687
(S "A" S-330 to C
"A" H-498)

Which was READ A SECOND TIME.

On motion by Senator HARRIMAN of Cumberland, the Senate RECONSIDERED its action whereby it ADOPTED Committee Amendment "A" (H-498), as Amended by Senate Amendment "A" (S-330), thereto, in NON-CONCURRENCE.

On further motion by the same Senator, the Senate RECONSIDERED its action whereby it ADOPTED Senate Amendment "A" (S-330) to Committee Amendment "A" (H-498).

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

Senator HARRIMAN: Thank you, Mr. President. Earlier this morning I added an amendment that simply changed the requirement that the State Treasurer may return money equitably to over-redeemed depositors and that amendment was changed from "may" to "shall". I now realize the financial implications to the State checkbook if that were to carry forward. I first want to offer my apologies to this body for taking up your time in submitting that amendment, and I would like to move the Indefinite Postponement of Senate Amendment "A".

Senator HARRIMAN of Cumberland moved that Senate Amendment "A" (S-330) to Committee Amendment "A" (H-498) be INDEFINITELY POSTPONED.

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

Senator CAREY: Thank you, Mr. President, Members of the Senate. After conversing with the Senator from Cumberland, Senator Harriman, I found that he was not aware that his amendment had a \$250,000 pricetag, and I commend the gentleman for backing it up and Indefinitely Postponing his own amendment. Thank you.

On motion by Senator HARRIMAN of Cumberland, Senate Amendment "A" (S-330) to Committee Amendment "A" (H-498) INDEFINITELY POSTPONED.

Committee Amendment "A" (H-498) ADOPTED, in concurrence.

Which was PASSED TO BE ENGROSSED, As Amended, in concurrence.

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

ENACTORS

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

An Act to Repeal the Laws Regarding Consumer Information Pamphlets

H.P. 307 L.D. 411
(C "A" H-88)

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

An Act to Make Changes in the Law Establishing the Maine School of Science and Mathematics
H.P. 1035 L.D. 1454
(C "A" H-383)

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

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

PAPER FROM THE HOUSE

Non-concurrent Matter

Bill "An Act Requiring Doctors of Naturopathic Medicine to Be Licensed by the Naturopathic Board of Examiners and Regulating Naturopathic Health Care Practice"

H.P. 1087 L.D. 1532
(C "A" H-508)

In Senate, June 20, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-508)**, in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-508) AS AMENDED BY HOUSE AMENDMENT "A" (H-613)**, thereto, in **NON-CONCURRENCE**.

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Allow the Department of Human Services to Take Protective Custody of Certain Newborn Children"

H.P. 394 L.D. 529

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-515)**.

Signed:

Senators:

FAIRCLOTH of Penobscot
PENDEXTER of Cumberland

Representatives:

LEMKE of Westbrook
RICHARDSON of Portland
PLOWMAN of Hampden
HARTNETT of Freeport
NASS of Acton
JONES of Bar Harbor
MADORE of Augusta

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

Signed:

Senator:

MILLS of Somerset

Representatives:

TREAT of Gardiner
LAFOUNTAIN, III of Biddeford
WATSON of Farmingdale

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

Which Reports were **READ**.

Senator **MILLS** of Somerset moved that the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence.

Senator **LAWRENCE** of York requested a Division.

The same Senator requested and received leave of the Senate to withdraw his request for a Division.

On motion by Senator **MILLS** of Somerset, the Minority **OUGHT NOT TO PASS** Report, **ACCEPTED**, in concurrence.

Divided Report

The Majority of the Committee on **NATURAL RESOURCES** on Resolve, to Reduce the Economic Impacts of the Clean Air Act on Maine's Citizens and Businesses (Emergency)

H.P. 459 L.D. 625

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-608)**.

Signed:

Senators:

LORD of York
RUHLIN of Penobscot

Representatives:

GOULD of Greenville
POULIN of Oakland
SAXL of Bangor
BERRY of Livermore
MERES of Norridgewock
SHIAH of Bowdoinham
GREENLAW of Standish
DAMREN of Belgrade
NICKERSON of Turner
MARSHALL of Eliot

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-609)**.

Signed:

Senator:

HATHAWAY of York

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-608)**.

Which Reports were **READ**.

Senator **LORD** of York moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-608)** Report, in concurrence.

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

Senator **HATHAWAY:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. What this amendment does is it does petition for immediate removal of portions of the State that are already classified as attainment, however, it doesn't do anything for the other areas that could, at this time, be designated in attainment by way of rural transport, which are basically the three counties that we are concerned about, that we have talked about already today that could possibly be the three counties facing sanctions. I would hope that you

vote against this amendment, and bring us back to what the original bill was, and since I can't talk further on other amendments, I will leave it at that. Thank you.

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

Senator **RUHLIN:** Thank you, Mr. President, Honorable Senators of Maine. What this bill is, in fact, it's a resolve. It's a resolve that directs the Department of Environmental Protection to petition the federal EPA to opt out those northern nine counties of the State of Maine that are presently in attainment, and to opt out any other areas of the State of Maine as rapidly as possible as soon as they are judged to be in attainment. Any area, as soon as they are judged to be in attainment. To attempt to opt out the entire State of Maine at this point in time is absolutely out of the question. Maine is in the Ozone Transport Region, you should realize that now because you will be hearing it again in the future, because we were put there by federal statute, not because we wanted to be, or because somebody thought it would be a great idea. We were put there by federal statute. Federal statute says, however, that a state may petition to have certain areas that are in attainment removed from that Ozone Transport Region. We will be the first in the northeast to attempt to opt out of that Ozone Transport Region. I think we should be proud of our name, Dirigo, to be doing that at this moment. I think there is a great opportunity for success if we move forward, united, to opt out those northern nine counties. It is the intent of the Committee, with this resolve, to encourage, and in fact, require the DEP to petition the EPA to opt out any other sections of Maine as fast as they come into attainment to the Clean Air Act. It's ongoing. I think it's important that you know that. Thank you.

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

Senator **HATHAWAY:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. We were put into the Ozone Transport Region by way of a letter from the Governor. We can opt out by way of a letter from the Governor. Cumberland County is in attainment. Cumberland County does not come under this resolve. I urge you, if you are interested in having Cumberland County be opted out immediately, to vote against this motion. Thank you.

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

Senator **RUHLIN:** Thank you, Mr. President, Senators of Maine. This is a major issue of this year that you are going to be facing. You are going to be facing it here now, and you will face it on reformulated gasoline, and I think it's time we cut the mustard. I will agree to stay strictly to the facts. Here are the facts. I will show you the proof. Maine was put into the Ozone Transport Region by federal statute, period. There was no letter from any Governor volunteering the State of Maine to enter the Ozone Transport Region. We are named by federal statute as a member of the Ozone Transport Region, and we can only be opted out by right of petition to

the EPA and then the EPA granting that petition, period. As we go forward with this important issue that affects the jobs that we all said we would try to get for the State of Maine, keep in mind that one thing. These are the laws of the United States of America. We are still one of the fifty states of that country. Those statutes clearly say that Maine will be a part of the Ozone Transport Region unless we opt out in a petition to opt out. That is a fact. Fact number two, let me make this correction to you, planning area one, which is the three southern counties of the State of Maine, are not, I emphasize, are not in attainment with the goals of the Clean Air Act of 1990. Therefore, they cannot opt out, because their non-attainment could impact on some areas that are in attainment. That is the reason they cannot opt out and will not be allowed to opt out. What we have done, I think, is the most progressive and positive thing that we could possibly do. We took those northern nine counties, over the objections of many people, that were in attainment, that we felt there was, in fact, an opportunity to opt out, and are requiring our DEP to petition to opt them out. Only the EPA can opt them out, but we are requiring the DEP to petition. Then we are requiring that the DEP will follow up with a petition on any part of the State of Maine that does become in attainment, to opt them out as rapidly as possible. You will not be able to, under the present Clean Air Act, you will not be able to opt out those southern three counties under any scenario, in any way, shape or manner. So get that out of your mind. They are in non-attainment, they cannot be opted out. We are opting out as much of the State as we can in as reasonable and as fast a fashion as possible. I would appreciate your help with this vote. Thank you.

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

Senator **LORD:** Thank you, Mr. President. Senator Ruhlin is absolutely right in what he said. Before we can take even the four counties that are in attainment now, we have got to ask for redesignation, we have got to do some remodeling to make sure they are in attainment, and can stay in attainment. Before we can get the other three counties out, we have got to go through that process but first we have some work to do. I'm telling you folks, it's time we went ahead and tried to get those sections of Maine that are in attainment, out, so it will help the economic status. Thank you.

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

Senator **HARRIMAN:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. May I pose a question through the Chair? First, it's my understanding that the regional EPA office in Boston recently testified here in Maine that Cumberland County was in attainment, based on data that they had reviewed. If that is, indeed, the fact, as I have heard, why would Maine be put in a situation where we have to go out and pay the funds necessary to recreate the documents to prove what the EPA already has for information? The second question I would like to ask, Mr. President, is it true that Cumberland County, the greater Portland region more specifically, will be required to do auto emissions testings in the next eighteen months? Thank you.

THE PRESIDENT: The Senator from Cumberland, Senator Harriman, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Thank you, Mr. President, Men and Women of the Senate. I think the answer to the question about Cumberland County is contained in that part of the statute that defines the word "non-attainment". It says that a non-attainment area is one that does not meet the criteria for air quality standards. My understanding is that Cumberland has recently, there are tests that have been conducted in Cumberland that suggests that Cumberland actually now meets those standards, even though Sagadahoc and York do not. The definition also includes those areas that contribute to ambient air quality in a nearby area that does not meet the standard. So, it's my understanding of the statute, that in order for Cumberland to be considered as an attainment area, we would have to show that the traffic and the pollution in Cumberland County is not contributing to the non-attainment in nearby Sagadahoc, perhaps York as well, although I understand the wind blows mostly the other way. I think that's the technical reason why Cumberland will have difficulty coming out of the non-attainment zone. They are going to wrap Sagadahoc, Cumberland and York all together as one area, and they are not going to let loose of Cumberland so long as there is a significant body of effluent going into the air from Cumberland that is attributing to the non-attainment in that region as a whole. Thank you.

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

Senator **RUHLIN:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. First of all I want to compliment the good Senator from Somerset, that was an excellent explanation. For somebody who hasn't been on the Committee it's the best explanation I have ever heard, and that is exactly what happens and that is why Cumberland County, as such, is not in compliance. I just want to make sure that the good Senator from Cumberland did, in fact, get his answer on that portion of the question. I also wanted to go on to answer the second part of the good Senator's question that involved auto emissions. As the law is presently written, the federal statute, the EPA has no choice but to mandate that at some distant time, and not all that far distant, I expect eighteen months from this coming August, but at some distant time the EPA, under federal statute, has no alternative but to mandate that there will, in fact, be auto emissions testing in the Cumberland County area. We will do all that we can, humanly possible, statutorily possible, as a State possible, I assure you, to prevent that from happening. Because the only way I leave some small window for hope is because it is eighteen months beyond this coming August or September that we would be forced to do that. But I assure the good Senator from Cumberland that his information was, in fact, correct. That it is in existing federal law that auto emissions will be mandated in the Portland and Cumberland County area as federal law presently states. I hope he has a complete answer now to his question.

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

Senator **HARRIMAN:** Thank you, Mr. President. I appreciate my good friend and colleague from Penobscot County, Senator Ruhlin, for that verification. In light of that it would seem to me that if it's reasonably possible that Cumberland County is in attainment, and that, if indeed, Cumberland County can prove that it is not contributing to the problems in Sagadahoc, then why wouldn't we want that wording in this resolve now, to put us on record as wanting Cumberland County to be opted out, because if we are opted out, then we won't have to do car tests, which Maine citizens communicated to us they wanted to get rid of, which we did, and now we're going to bring it back. It doesn't make sense.

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

Senator **RUHLIN:** Thank you, Mr. President. In response, in attempt to continue to answer the good Senator from Cumberland's questions. I think perhaps you didn't get the whole answer totally. It would be the federal government that would be mandating the car testing. The State of Maine; the Senate, combined with the House, combined with the Governor's signature; passed a bill that has said we will not have auto emissions testing in the State of Maine. We have done that already this year. That is the law in the State of Maine. Only federal law can supercede that, and that remains to be seen. I think the good Senator, however, from Cumberland, made some kind of a leap that I missed, by calling Cumberland County in attainment. I assure you, and I will say it again because I want you to understand, Cumberland County is in the planning district one, with York and Sagadahoc Counties. As such, Cumberland County is not in attainment. You cannot opt out Cumberland County. You've got to understand that. You can make all the petitions in the world that you want to. You cannot, the federal law of the land will not allow you to opt out Cumberland County. Please understand that, final, end of conversation, you can't do it, unless you open up the Clean Air Act in the federal Congress and get them to change federal statute. Then you can, but you cannot do it from the State House in Augusta. Thank you.

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

Senator **MCCORMICK:** Thank you, Mr. President. As I read this amendment, and I would dearly like someone to correct me if I am wrong, basically amendment "A" tells the Governor and EPA to do something that they already have the power to do under the Clean Air Act. So why are we doing this?

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

Senator **LORD:** As I understand the question, why we are doing it is because we are in attainment. That part of the State is in attainment so we can ask

to opt out. We have got to go through a process to do the rest of the State. We have got to ask for redesignation. We've got to do modeling. The reason we can opt out the upper part of the State is because remodeling has been done, there is enough information that DEP has compiled so we can ask for this to be opted out. That's the difference. We've got to do some work in these other areas before we can get them out.

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

Senator **MCCORMICK:** Thank you, Mr. President. All of us got, courtesy of the good Senator from York, Senator Lord, and I happened to save it, a letter from the Assistant AG, Jeff Pidot, who is a constituent of mine, so I trust his judgement. In this letter, in subnote two, it says, "Pursuant to section 17-6A of the Clean Air Act, the Governor of Maine may submit a petition to EPA, and EPA may remove the entire state, or a portion of the state, from the Ozone Transport Region, if control of emissions in the entire state, or a portion of the state, will not significantly contribute to the attainment of ozone standards in any area or region." So, if we already have the power to do this, I reiterate, please convince me why this bill is necessary. We should only be doing bills that do something.

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

Senator **RUHLIN:** Thank you, Mr. President. In the first place, the opt out has never yet been done. It exists in language in the federal statute. It's felt that if you send a petition that has the backing of the Legislature of the State of Maine, as well as the Executive Branch, that will have more authority. It will speak with a stronger voice than just simply the Chief Executive Officer sending down a petition. It is much stronger to have the entire Legislative branch standing behind the Department of Environmental Protection, along with the Governor's petition. That is why, to give it the strength to start this process, keeping in mind that this is the first time, we will be on the cutting edge, we will be the first one to attempt to opt out a section. So, that is why this legislation is before you as it is.

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

Senator **HATHAWAY:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. To the good Senator from Kennebec, the reason is because under the law, as was stated earlier and was later refuted, the Governor's letter got us in, the Governor's letter can get us out. That's the law. EPA can do it, the Administrator can do it on his own, but I'm sure you will agree with me, that the EPA Administrator would not take that step at this time. The good Senator also said, quoting from the letter that I read this morning from the Attorney General's office, that we can opt out all or part of the

state. The only issue is does is significantly contribute to the attainment of the ozone standard in any other area of the region. That's the question that we have to ask. I'm not disagreeing that we should approve Amendment "A", I'm just saying that it doesn't go far enough. If we're going to make the effort to take out the nine counties, and then the other four counties that we have been told by EPA, in a recent memo from them, that will be in attainment within two weeks, that leaves us three counties, one of which, if you had been in attendance at Congressman Longley's symposium in Portland, you would have heard EPA say that Cumberland County is, indeed, in attainment. Sagadahoc and York County can be redesignated as rural transport, and also be put into attainment classification so that we can opt out of OTR and not have the 15% reduction plan.

To answer the good Senator from Cumberland's question about INM, it's not required in non-attainment areas outside the Ozone Transport Region, except in urban areas that have a population above 200,000. The only way that Portland and Cumberland County will not have to reintroduce emissions testing within the next eighteen months, is if we opt out and have Cumberland County opt out of the OTR. Otherwise, the plan that we rejected here will be implemented by EPA in Cumberland County. Again, I'm not against what this motion is, but if we wait a little while we can do much more. We can relieve ourselves of the financial and health burdens of the people of Cumberland, York and Sagadahoc counties, from the financial and health hazards that we have talked about. So, I urge you to please reject this amendment.

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

Senator **LORD:** Thank you, Mr. President, my Learned Colleagues. Referring more to Jeff Pidot's letter, I would like to read to you. "Pursuant to section 176A of the Clean Air Act, the Governor of Maine may submit a petition to EPA, and EPA may remove the entire state, or a portion of the state, from the Ozone Transport Region, if the control of emissions in the entire state, or portions of the state, will not sufficiently contribute to the attainment of the ozone standards of any other area of the region. Based upon the federal notice requirement, which takes substantially more than sixty days for EPA to approve opting out all of the OTC." Let me tell you this, for those people who went to the stakeholders meeting that we had earlier this year, John Devilla, who is the Commissioner of the area one region was asked this question, could we opt out the whole State of Maine. He said absolutely, positively not. They would not accept it. We asked about the possibility of opting out the nine upper counties and he said it's up to the State and the Governor of the State of Maine to ask for opting out. This is what the truth is. Thank you.

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

THE PRESIDENT: The pending question before the Senate is the motion by Senator **LORD** of York that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-608)** Report, in concurrence.

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: **BEGLEY, BENOIT, BERUBE, BUSTIN, CAREY, CASSIDY, CIANCHETTE, CLEVELAND, FAIRCLOTH, FERGUSON, GOLDTHWAIT, HALL, LAWRENCE, LONGLEY, LORD, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, PINGREE, RAND, RUHLIN, STEVENS**

NAYS: Senators: **ABROMSON, AMERO, CARPENTER, ESTY, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, PENDEXTER, SMALL, and the PRESIDENT, Senator BUTLAND**

Senator **ABROMSON** of Cumberland requested and received leave of the Senate to change his vote from **YEA** to **NAY**.

24 Senators having voted in the affirmative and 11 Senators having voted in the negative, the motion by Senator **LORD** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-608)** Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-608) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **NATURAL RESOURCES** on Bill "An Act to Address a Shortfall in the Maine Ground Water Oil Clean-up Fund and Change the Financial Assistance Program for Owners of Underground Oil Storage Facilities" (Emergency)
H.P. 1119 L.D. 1563

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-610)**.

Signed:

Senators:
LORD of York
RUHLIN of Penobscot

Representatives:

GOULD of Greenville
POULIN of Oakland
SAXL of Bangor
BERRY of Livermore
MERES of Norridgewock
SHIAH of Bowdoinham
GREENLAW of Standish
DAMREN of Belgrade
NICKERSON of Turner
MARSHALL of Eliot

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-611)**.

Signed:

Senator:

HATHAWAY of York

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-610)**.

Which Reports were **READ**.

Senator **LORD** of York moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-610)** Report, in concurrence.

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

Senator **HATHAWAY:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I would just like to point out two facts. One is that this is a fund that has been raided in the past. There is no provision in this amendment to keep it from happening again. But not to worry, because there is a price increase in a barrel of oil. So, if you would like to support a price increase in a barrel of oil, you should support this. If you don't, I wish you would reject it. Thank you.

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

Senator **LORD:** Thank you, Mr. President. This fund is the fund that we use to clean up gasoline spills, underground tank spills. What happened, they did raid the fund, they raided it for a million and a half in the Appropriations Committee. That means that the fund is getting low. The DEP doesn't know, when they get a bill, whether it's going to be for \$500,000 or \$1,500,000. The bill says when the fund gets down below \$3 million, the Commission that regulates how this funding is spent, will put an addition on. Just as soon as it gets up to like \$10 million, then they will stop it. But, they need this working capital if you are going to pay your bills. When these underground tank people get these tanks out, they expect their pay and can't be waiting six months or a year. Thank you.

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

Senator **HARRIMAN:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I've had a chance to review the financial documents of this particular clean-up fund. Quite frankly, Mr. President, I'm surprised to see how much money is being spent on rent, common space charges, professional expertise, lawyers, engineers, et cetera. There is so much money out of this fund being consumed to either balance the State budget in the past, or to pay for overhead expenses, professional talent, and very little of it is going to clean up the environment. Thank you.

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

Senator **RUHLIN:** Thank you, Mr. President, Honorable Senators of the State of Maine. I would like to point out to you that this what this fund really is is a fund, although it's assessed by the State of Maine, it's almost at the urging of the distributors of petroleum products. I'm not sure they would really say, that if I said urging, that I was totally accurate. It's a way that the distributors have, and the State of Maine has, for collecting funds, if you will, in a sense a user's fee, so that when there is a spill we will have the funds available to clean up that spill. That's what it is. That's what this whole thing is about. The industry itself, of course they don't want to pay any more money in there. As far as the Appropriations Committee raiding it, yes they did. We all know that if you've got any money at all, especially at this time of year, you hide it. Don't let the Appropriations Committee ever see it. Don't mention it. Know nothing, see nothing, because they will have their hands right into your pockets. That happened. It's unfortunate, but that's not the fault of this fund. The fund was honestly conceived to honestly carry it out, it concerns a very useful purpose. The purpose is to clean up oil spills, and it's paid for by the people who sell the oil. It's a user fee. I hope you will take that into consideration. Thank you.

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

Senator **LORD:** Thank you, Mr. President. First of all, nobody knows what the cost is going to be when they start taking a tank out of the ground. Up in Limerick, one of my towns, there was an oil spill right there in the middle of the village. They went down twenty-two feet because the ground was saturated with gasoline. What they did with the contaminated soil was they brought it down to Frank Carroll's pit, they put it on a pad, they covered it up with plastic. When they had a chance they hauled it from there down to some place in Eliot where they run it through a plant that uses it for hottop or something like that. So, you don't know what it's going to cost. Some don't cost very much, but some are very, very high cost because it all depends on how far out the place is polluted. This is what costs money, and it costs big money. Thank you.

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

Senator **HATHAWAY**: Thank you, Mr. President, Ladies and Gentlemen of the Senate. The people who pay for it are your constituents, nobody else. If you want to raise the price of their gas, you can do it right now. If you want Appropriations to continue taking money out of the fund, you can vote for that right now. I urge you not to. I ask for a Roll Call.

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

THE PRESIDENT: The pending question before the Senate is the motion by Senator **LORD** of York that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-610)** Report, in concurrence.

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: **ABROMSON, BEGLEY, BENOIT, BUSTIN, CAREY, CARPENTER, CASSIDY, CIANCHETTE, CLEVELAND, ESTY, FAIRCLOTH, FERGUSON, GOLDTHWAIT, HALL, LAWRENCE, LONGLEY, LORD, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, PINGREE, RAND, RUHLIN, SMALL**

NAYS: Senators: **AMERO, BERUBE, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, PENDEXTER, STEVENS, and the PRESIDENT, Senator BUTLAND**

26 Senators having voted in the affirmative and 9 Senators having voted in the negative, the motion by Senator **LORD** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-610)** Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-610) **READ** and **ADOPTED**, in concurrence.

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

SECOND READER

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

House As Amended

Bill "An Act to Exempt the State from the Mandatory Use of Reformulated Fuel" (Emergency)
H.P. 274 L.D. 376
(C "A" H-517)

Which was **READ A SECOND TIME**.

Senator **LORD** of York moved that the Bill and Accompanying Papers be **INDEFINITELY POSTPONED**, in concurrence.

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

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

A vote of Yes will be in favor of **INDEFINITE POSTPONEMENT**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: **ABROMSON, BEGLEY, BUSTIN, CAREY, CASSIDY, CIANCHETTE, CLEVELAND, FAIRCLOTH, FERGUSON, GOLDTHWAIT, LONGLEY, LORD, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, RAND, RUHLIN**

NAYS: Senators: **AMERO, BENOIT, BERUBE, CARPENTER, ESTY, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LAWRENCE, PENDEXTER, PINGREE, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND**

Senator **LAWRENCE** of York requested and received leave of the Senate to change his vote from **YEA** to **NAY**.

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **LORD** of York to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers, in concurrence, **PREVAILED**.

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **LABOR** on Bill
"An Act to Amend the Occupational Disease Law"
H.P. 957 L.D. 1346

Reported that the same **Ought to Pass as Amended**
by Committee Amendment "A" (H-416).

Signed:

Senators:

MILLS of Somerset
RAND of Cumberland

Representatives:

HATCH of Skowhegan
CHASE of China
LEMAIRE of Lewiston
SAMSON of Jay
TUTTLE, JR. of Sanford

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

Signed:

Senator:

BEGLEY of Lincoln

Representatives:

JOY of Crystal
JOYCE of Biddeford
PENDLETON, JR. of Scarborough
STEDMAN of Hartland
WINSOR of Norway

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

Which Reports were **READ**.

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

Divided Report

The Majority of the Committee on **STATE AND LOCAL**
GOVERNMENT on Bill "An Act Concerning Reasonable
Standards and Procedures for Contracting Services by
the State"

H.P. 332 L.D. 453

Reported that the same **Ought to Pass as Amended**
by Committee Amendment "A" (H-357).

Signed:

Senator:

LONGLEY of Waldo

Representatives:

DAGGETT of Augusta
AHEARNE of Madawaska
LEMKE of Westbrook
SAXL of Bangor
GERRY of Auburn
ROSEBUSH of East Millinocket

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

Signed:

Senators:

AMERO of Cumberland
CARPENTER of York

Representatives:

ROBICHAUD of Caribou
LANE of Enfield
SAVAGE of Union
YACKOBITZ of Hermon

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

Which Reports were **READ**.

Senator **AMERO** of Cumberland moved that the Senate
ACCEPT the Minority **OUGHT NOT TO PASS** Report, in
concurrence.

Senator **LONGLEY** of Waldo requested a Division.

THE PRESIDENT: The Chair recognizes the Senator
from Waldo, Senator Longley.

Senator **LONGLEY:** Thank you, Mr. President,
Colleagues in the Senate. Basically what this bill
does is set up a standard for when we contract out.
Some of the standards are when services aren't
already available by the State. The most important
piece is when it will be more cost-efficient and
there will be no interruption of service by
contracting out. I request that you vote against the
pending motion. Thank you.

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

Senator **AMERO:** Thank you, Mr. President, Ladies
and Gentlemen of the Senate. This item of when we
contract out work of the state is one that the
Productivity Task Force is looking into and will be
studying. I think it's premature, at this time, to
vote on establishing standards until we let that task
force do its work. I would urge you to vote for the
motion on the floor.

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Longley.

Senator **LONGLEY:** Thank you, Mr. President, Colleagues. I don't see that the Productivity Task Force, and the standards set forth in this bill, are at all contradictory. There are two lists. One is a permissive list, saying if any one of the following, the State is allowed to contract out, and maybe should even look into contracting out. The next test is if it's cost efficient we should be contracting out. So, I see them, both the Productivity Task Force and this bill, going in parallel directions, not opposite directions. Thank you.

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

THE PRESIDENT: The pending question before the Senate is the motion by Senator **AMERO** of Cumberland that the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence.

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: **ABROMSON, AMERO, BEGLEY, BENOIT, CARPENTER, CASSIDY, CIANCHETTE, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LORD, MILLS, PENDEXTER, SMALL, STEVENS,** and the **PRESIDENT, Senator BUTLAND**

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

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **AMERO** of Cumberland to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

ORDERS OF THE DAY

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

HOUSE REPORT from the Committee on **TRANSPORTATION** on Bill "An Act to Amend Laws Pertaining to On-premises Signs by Allowing for Changeable Signs" H.P. 946 L.D. 1335

Report - Ought to Pass as Amended by Committee Amendment "A" (H-456)

Tabled - June 23, 1995, by Senator **AMERO** of Cumberland.

Pending - **ACCEPTANCE OF THE REPORT.**

(In House, June 14, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-456).**)

(In Senate, June 15, 1995, Report **READ.**)

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

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

HOUSE REPORTS from the Committee on **TAXATION** on Bill "An Act to Increase the Property Tax Exemption for Farm Machinery" H.P. 17 L.D. 11

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-242). (10 members)

Minority - Ought Not to Pass. (3 members)

Tabled - June 22, 1995, by Senator **AMERO** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT.**

(In House, May 18, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-242).**)

(In Senate, May 23, 1995, Reports **READ.**)

On motion by Senator **AMERO**, Tabled, pending **ACCEPTANCE** of Either Report.

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

SENATE REPORT from the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Create the Propane and Natural Gas Professional Act of 1995"
S.P. 498 L.D. 1357

Report - Ought to Pass as Amended by Committee Amendment "A" (S-302).

Tabled - June 23, 1995, by Senator **AMERO** of Cumberland.

Pending - **ACCEPTANCE OF THE REPORT.**

(In Senate, June 21, 1995, Report **READ.**)

Which Report was **ACCEPTED.**

The Bill **READ ONCE.**

Committee Amendment "A" (S-302) **READ** and **ADOPTED.**

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

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

An Act to Improve Bicycle Safety in This State
S.P. 580 L.D. 1557
(C "A" S-256)

Tabled - June 23, 1995, by Senator **KIEFFER** of Aroostook.

Pending - **PASSAGE TO BE ENACTED** (Roll Call Ordered)

(In House, June 20, 1995, **PASSED TO BE ENACTED.**)

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

Senator **STEVENS:** Mr. President, Men and Women of the Senate. I would like to explain this just once more. Bicycle safety is the name of the bill, but really it doesn't fit the description of what we are trying to do. In the definition on the amendment, it includes motorized bicycles or motorized tricycles as part of the definition. With the three-wheeled motorcycles, the large ones that you see quite often, with the gas on the right-hand side, if you try to lift the right hand off the gas to make a signal, it's almost impossible to keep them where they should go. That is one point. The second point, it allows the movement of bicycles and tricycles, skateboards and other things, in the traffic lane in areas in cities and towns, where the mileage is ten or fifteen

miles an hour, or more, and let's them ride right with the traffic that's flowing as long as they can keep up with the speed. To me that is very dangerous. Most of the accidents that happen, happen with ten to fourteen-year-olds. Most of the accidents are from three to five o'clock in the afternoon, when you are going home from work. I don't think it's a very safe thing to do and I hope you will vote against the enactment. Thank you.

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

Senator **PARADIS:** Thank you, Mr. President, Men and Women of the Senate. This bill has been amended to death and discussed to death. The motorized bicycles are in a different place in statute completely. This is for strictly the regular bicycles. It's strictly hand signals. Right now we are depending on volunteers to be teaching bicycle safety. They requested this of us, they are doing it for free, to give them this hand signal that they can be legally teaching. We have discussed this with Chief Skolfield, the Commissioner of Public Safety, they want this. We are going to be continuing to work on improving our bicycle safety. This issue is not going to go away with this vote or subsequent votes because this is a big thing right now in Maine. Washington State was all over CNN the other day because they have done so much with their bicyclists. They are out there and this is starting to respect the fact that they are there. It has become a tourism industry. People go there because they know that bicyclists are welcome and they have a place for them. We are not anywhere near that, but we are asking strictly for hand signals. The piece about the movement on the highway has been eliminated. Thank you very much.

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

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS:	Sensors:	ABROMSON, BUSTIN, CAREY, CIANCHETTE, CLEVELAND, ESTY, FAIRCLOTH, FERGUSON, GOLDTHWAIT, HARRIMAN, LAWRENCE, LONGLEY, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, PINGREE, RAND, RUHLIN
NAYS:	Sensors:	AMERO, BEGLEY, BENOIT, BERUBE, CARPENTER, CASSIDY, HALL, HANLEY, HATHAWAY, KIEFFER, LORD, PENDEXTER, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the Bill was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

HOUSE REPORTS from the Committee on **NATURAL RESOURCES** on Bill "An Act to Enhance Recycling by Ensuring Raw Materials for Businesses that Recycle and to Fund Household Hazardous Waste Collection Programs"

H.P. 805 L.D. 1122

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-550)**. (8 members)

Minority - **Ought Not to Pass**. (5 members)

Tabled - June 23, 1995, by Senator **KIEFFER** of Arostook.

Pending - **ACCEPTANCE OF EITHER REPORT**.

(In House, June 22, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-550)**.)

(In Senate, June 22, 1995, Reports **READ**.)

Senator **LORD** of York moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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

Senator **HATHAWAY:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I think what this bill does is has the State Planning Office control the flow of recyclables, which means that companies can't sell them to the highest bidder, which, in my opinion, means it's against free market principles. Which is kind of interesting to me because I looked at this the other day and I remembered that we had some visitors here from the old Soviet Union. I visited the Soviet Union. I remember State planning. This is more of it. They can have it. We don't need it. I hope you don't vote for this bill. Thank you.

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

Senator **MCCORMICK:** Thank you, Mr. President, Men and Women of the Senate. My understanding of what this bill is is exactly the opposite. It merely allows the state agencies relating to waste to help coordinate, especially the recyclable waste stream,

towards businesses who need it. I specifically speak from experience, vis a vis Statler Tissue here in this county. When it closed we were wishing that our towns, which are all doing various levels of recycling, that the waste stream of clean paper, which Statler needed, could have been more organized and transported to them. This bill allows that and there are many companies who need that kind of thing. Yorktowne Paper in Gardiner being one of them. It is silly of us to not be utilizing our resource to our greatest ability. I will be voting yes on the majority ought to pass as amended report.

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

Senator **RUHLIN:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. What this particular bill, in its amended form, before you does is really nothing much of anything. I don't have much feeling for it, frankly, one way or the other. I did think I owed you a word of explanation. The bill came before us, we felt what it was trying to do was too difficult. It would upset the apple cart I guess you could say. We were going to put it in unallocated language. When you do that it really becomes more of an advisory. It's not ongoing law, it just stays in the law for this particular session. It serves more, like I say, as an advisory. The Revisor's Office said that they really thought a resolution would be better so we modified it to be a resolution. This does not force anybody to do anything. It just says it's a great idea, if you have some household waste materials, to recycle them in a certain way that can be used by business. That's fine and wonderful and dandy and, frankly, however you want to vote on it is fine. Thank you.

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

Senator **LORD:** Thank you, Mr. President. It appears today is Natural Resources Committee Day. What this bill is it doesn't mandate anything. It just asks the State Planning Office, if possible, to see if people can work with industries within the state so they can use their recyclables. That's one part of it. The other part of it is, a few years ago we had a voluntary household hazardous waste pilot program. There's always a lot of people who want to get rid of old paint and varnish, garden poisons, and the like, and we had a pilot program. What this would do, if funds are available, is to have another program to get rid of this hazardous household waste that is accumulating underneath the sink and in the garage and everywhere else. It's a good bill.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **LORD** of York that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

The Chair ordered a Division.

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

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

20 Senators having voted in the affirmative and 4 Senators having voted in the negative, the motion by Senator LORD of York to **ACCEPT the Majority OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-550) **READ** and **ADOPTED**, in concurrence.

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

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

HOUSE REPORTS from the Committee on BUSINESS AND ECONOMIC DEVELOPMENT on Bill "An Act to Amend the Laws Related to Optometry"

H.P. 590 L.D. 800

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-534)**. (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-535)**. (4 members)

Tabled - June 23, 1995, by Senator AMERO of Cumberland.

Pending - the motion by Senator GOLDTHWAIT of Hancock to **ACCEPT the Majority OUGHT TO PASS AS AMENDED** Report, in concurrence.

(In House, June 22, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-534) AS AMENDED BY HOUSE AMENDMENT "A" (H-558)**, thereto.)

(In Senate, Reports **READ**. Motion to **ACCEPT** the Minority Report **FAILED**.)

On motion by Senator KIEFFER of Aroostook, Tabled until Later in Today's Session, pending the motion by Senator GOLDTHWAIT of Hancock to **ACCEPT the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-534)** Report, in concurrence.

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

HOUSE REPORTS from the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Ensure That Rulemaking by Agencies Does Not Exceed the Intent of Authorizing Legislation"

H.P. 806 L.D. 1123

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-584)**. (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-585)**. (5 members)

Tabled - June 23, 1995, by Senator KIEFFER of Aroostook.

Pending - **ACCEPTANCE OF EITHER REPORT**.

(In House, June 23, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-584)**.)

(In Senate, June 23, 1995, Reports **READ**.)

Senator AMERO of Cumberland moved that the Senate **ACCEPT the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-584)** Report, in concurrence.

Senator LONGLEY of Waldo requested a Division.

THE PRESIDENT: The pending question before the Senate is the motion by Senator AMERO of Cumberland that the Senate **ACCEPT the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-584)** Report, in concurrence.

A Division has been requested.

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

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

18 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion by Senator AMERO of Cumberland to **ACCEPT the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-584)** Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-584) **READ** and **ADOPTED**, in concurrence.

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

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

Resolve, to Strengthen Fish Hatchery Capacity within the State by Establishing a Partnership between Public and Private Organizations

S.P. 365 L.D. 991
(S "A" S-301 to C
"A" S-116)

Tabled - June 23, 1995, by Senator KIEFFER of Aroostook.

Pending - **FINAL PASSAGE.**

(In House, June 23, 1995, **FINALLY PASSED.**)

Which was **FINALLY PASSED** and having been signed by the President was presented by the Secretary to the Governor for his approval.

The Chair laid before the Senate the following Tabled and Unassigned matter:

HOUSE REPORTS from the Committee ON UTILITIES AND ENERGY on Bill "An Act to Prohibit Retrofits of Nuclear Power Plants without Permission of the Public Utilities Commission"

H.P. 676 L.D. 927

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-435).** (5 members)

Tabled - June 23, 1995, by Senator KIEFFER of Aroostook.

Pending - **ACCEPTANCE OF EITHER REPORT.**

(In House, June 21, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-435).**)

(In Senate, June 22, 1995, Reports **READ.**)

Senator CARPENTER of York moved that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE.**

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

Senator CLEVELAND: Thank you, Mr. President, Men and Women of the Senate. I would urge you not to support that motion because that motion would not be able to allow us to consider what I think is a basic and simple need in the public, and that is simply a right to know. Under current statutes the Public Utilities Commission can ask for information about the cost of utilities, including costs related to nuclear power facilities. However, because of changes recently made, both Central Maine Power and Bangor Hydroelectric, are under rate cap mechanisms, as opposed to cost of service or return on investments, where they would file a petition and all of that information would be naturally looked at at

one of the rate for return requests. It will now be five years before that occurs and the third largest company, Maine Public Service, has asked for a similar cap. The motion on the floor would not allow the public to have access to information. What it would do is simply require the Public Utilities Commission to exercise the authority it currently has to ask for some economic information relative to the costs, the projections of those costs for the nuclear power industry, so that we could make some prudent decisions. I would like to remind you that the largest creditor to the utilities right now, by moral obligation bonds, is the State of Maine, for some \$200 million. Under the contract with the Maine Yankee Company, all utilities are on a cost of service basis, so what ever the cost is is passed through to the utilities. Those costs may, or may not, by some of the utilities, be passed on in future years. There's a great deal of uncertainty. As you know, Maine Yankee is currently resleeving all 17,000 of its high pressure tubes. This has never been done in the United States. The only other nuclear power plant was in Wisconsin, they did 60% of their tubing. A year later they had to shut the facility down. There is a fair amount of uncertainty. I think it is only fair to ask that once in five years, the public have an opportunity to know and understand what the possible consequences are, because the impact on the utilities can be enormous. Central Maine Power takes 20% of its total energy source from Maine Yankee. Maine Public Service takes 40% of its total power, so changes in that economic stream of cost of power has an enormous effect, both on the utilities and, potentially, our ratepayers.

The ought not to pass motion would not allow the public to have access to that information. Let me conclude by saying I have never been against nuclear power. I have never voted against nuclear power. I have no cause against nuclear power. It has been an efficient, reliable, and relatively inexpensive source of energy for our State, and an important one. My issue, and my concern is only that we stay informed. This provides the opportunity to do that, nothing more than that. I would hope that you would not support the current motion so that we may go on to support the other Committee report. Thank you.

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

Senator CIANCHETTE: Mr. President, Members of the Senate. I have a copy of the letter that raises a question about a conflict of interest that I may have on this bill. I would like to get a ruling whether or not I have a conflict of interest.

Senate at Ease

Senate called to order by the President.

THE PRESIDENT: The Senator from Somerset,

Senator Cianchette, has asked the Chair for a ruling as to whether the Senator from Somerset, Senator Cianchette, should excuse himself from voting on this. The Chair would refer the body to section 522 of Mason's. "It is the general rule that no member can vote on a question in which they have a direct personal or pecuniary interest. The rights of members to represent their constituencies, however, is of such major importance that members should be barred from voting on matters of direct personal interest only in clear cases when the matter is particularly personal. This rule is obviously not self-enforcing, and unless the vote is challenged, members may vote as they choose." The Chair would also refer to the State statute in regards to conflict of interest. It says, "Where a legislator or member or his or her immediate family has, or requires a direct substantial personal financial interest, distinct from that of the general public, in an enterprise which would be financially benefitted by proposed legislation or derives a direct substantial personal financial benefit from close economic association with a person known by the legislator to have a direct financial interest in an enterprise affected by the proposed legislation." The Chair would rule that the Senator from Somerset, Senator Cianchette does not have, or will not derive, a direct substantial personal financial benefit from this legislation, and would rule that the Senator is not in conflict of interest. The Chair recognizes the Senator from Cumberland, Senator Amero.

Senator AMERO: Thank you, Mr. President. I would also request a ruling from the Chair as to whether I would have a conflict of interest if I voted on this piece of legislation.

Senate at Ease

Senate called to order by the President.

THE PRESIDENT: The Senator from Cumberland, Senator Amero, has requested a ruling from the Chair regarding a conflict of interest in regards to L.D. 927. The Chair would rule, using the same logic as the Senator from Somerset, Senator Cianchette, that the Senator from Cumberland, in fact, does not have a conflict of interest, and may vote on L.D. 927. The Chair recognizes the Senator from York, Senator Carpenter.

Senator CARPENTER: Thank you, Mr. President, Women and Men of the Maine Senate. I feel a little left out, and not very important. If you read the title of this bill you are not going to find anything in the bill itself that pertains in any way, shape, or manner to the title of the bill, which is the retrofitting of nuclear power plants without permission from the PUC. I think Maine Yankee, when they came forward and said they had problems with their tubes, and they had the cracks, they came to our Committee and testified to that fact. They said

they weren't sure how many were cracked at that time. Then they left and we asked them to come back, and we also had the Federal Nuclear Regulatory Commission come. We had a good day that day, and I think a large majority of the Committee left feeling that they were very up front. The Nuclear Regulatory Commission said they were above average in the country. They had come forward, immediately, with the number of cracks. There were about 60% cracked, they decided to resleeve 100% of them. Therefore, this bill, I think, in its original title, was pretty well taken care of. It's really not getting at Maine Yankee, in any way. The bother is going to be to the ratepayers and the other electric utilities that purchase nuclear power. Maine Public Service will be bothered by this bill, and their ratepayers will have increased rates because of this bill. Bangor Hydro and Central Maine Power will likely be affected in the same fashion. This bill adds a whole new layer of regulation with absolutely no benefit to consumers. This legislation requires each utility that buys power from Maine Yankee to file extensive reports and participate in elongated proceedings. The end result will be an advisory order that summarizes the proceedings.

Consumers, especially, though served by small utilities, get to pay for that process, and nothing else. This bill is an imposition of excessive duplicative regulation. It hurts Maine's business climate and should be avoided. The Bill adds an entirely new layer of regulation that takes months, costs thousands of dollars, and helps no one. As the electric industry moves toward competition the goal should be less regulation, not more. Thank you.

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

Senator CLEVELAND: Thank you, Mr. President. Let me begin my remarks by congratulating the Senate President on his ruling. I think it was the appropriate ruling. I think it was unfortunate that the question was even raised on the two Senators. Let me compliment my good friend in the Utilities Committee, Senator Carpenter, from York County. I think he has done an excellent job on presenting the information provided to him by the electric utility industry. He has conveyed it to you exactly as they presented it to him. I suggest to you that there is another point of view. The purpose here is simply to provide public access to knowledge. We did have some information from the Nuclear Regulatory Commission. They gave us some good information about safety issues, but that's not the purpose here. No one questions whether it is safe, nor does anyone question whether there is in place a mechanism by which to report and maintain that safety. What we asked for was simply information. Several of us on the Committee asked the representatives of the Maine Yankee facility for information regarding the economics of the plant, the information that was used, and what process and judgements were made in regards to the economics of the facility, what were the prospects for the future, what the basis for those decisions were, so that we all could understand the possible consequences in the future, all hoping that we would continue with the safe and reliable and relatively low-cost power. We did not receive answers to those questions. As a matter of fact, I

was told, to the question that I asked, that I couldn't have the answer, that the legal counsel for Maine Yankee said that it was information proprietary to the board and that it was not available to me, or members of the Maine Legislature, and they would not provide it. A couple of other members on the Committee, as well, asked for information and also received no reply. That is a concern. The situation with the nuclear facility has changed. I hope, and many others hope, that the repairs will be successful. We simply want to know what is the basis in the decision process which that was made, so we all can be familiar with what to expect in the future. Nothing more. It adds no new layer of regulation. It is simply what is currently in the law and it simply asks the Public Utilities Commission to set it as a priority and to ask for the information so that we will all have it available to us. Thank you.

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

Senator **KIEFFER:** Thank you, Mr. President. When I first became interested in this bill, I went and dug into the existing law regarding the ability of the Public Utilities Commission to obtain any type of information that they so desire from a utility. Under section 35-A, 112, power to obtain information reads as follows, "Investigation of management of business. The Commission may require into the management of the business of all public utilities and shall keep itself informed as to the manner and method in which it is conducted. Facilities and information to be furnished. Every public utility shall furnish the Commission with all reasonable facilities for the prompt and faithful discharge of its duties, all information necessary to perform its duties and carry into effect this title." It goes on down to paragraph three, "Inspection of books and papers confidentiality. The following provisions apply to inspection of books and papers. The Commission, or any Commissioner or person employed by it for that purpose, may, upon demand, inspect and copy the books, accounts, papers, records, and memorabilia of any public utility in relation to its business and affairs. A person other than a commissioner must produce his authority to make an inspection." Then it goes on, under subparagraph four, "Production of documents and failure to obey. The Commission may require the production of documents as follows. The Commission may require by order, or subpoena to be served on any public utility in the same manner that a summons is served in a civil action in a superior court, the production of any books, accounts, papers, records, or verified copies of them, kept by a public utility, or within the control of a public utility, in any office of place within, or outside, the state, so that an examination may be made by the Commission, or under its direction." It seems to me, Mr. President, and Ladies and Gentlemen of the Senate, that the Public Utilities Commission is empowered with the authority to regulate utilities, and I believe that this existing bill certainly gives them the authority to obtain any amount of documentation, or papers, or records, that are in existence in the utility. I just can't see loading a utility, or any other business, with additional duplicate pieces of legislation. Thank you.

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

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

Senator **CIANCHETTE:** Thank you, Mr. President. I would like to make a few remarks, and I have not been prompted by any of the public utilities. This comes from my own mind, for whatever that's worth. Senator Cleveland, from Androscoggin, mentioned the moral obligation bonds of somewhere over \$200 million that the State has signed onto for the power companies to purchase back contracts from the non-regulated utility generators, the NUGs. If the PUC hadn't been so involved in that process, we wouldn't be borrowing all of that money in the first place. So, the moral obligation bonds that were generated, probably are the result of the poor decisions made by the PUC. I don't think they need to be involved in any more. It's my understanding that the Maine Yankee power plant is not a public utility. It's my understanding that the PUC does not regulate anyone except public utilities. If we are going to be concerned about the rates in the State of Maine for electricity, maybe we ought to also look at NEPOOL, which provides an awful lot of the power in Maine. They could be planning all kinds of things that we ought to know about. We buy a lot of power from New Brunswick Power, and perhaps New Brunswick Power could be planning all sorts of things that could be affecting the rates in the State of Maine. Perhaps, if we are going to do Maine Yankee, we ought to do all of those people providing power to the public utilities that the Public Utilities Commission is responsible for. I really think that this is a stretch. If there is any information that any Senator or Representative really wants to know, I believe that information is available through the Public Utilities Commission. It may not be for the public to put in the newspaper, I'm not sure, but I do believe that if there is some real information that anyone of us wants, we could go to the Public Utilities Commission and find it. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **CARPENTER** of York that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: ABROMSON, AMERO, BEGLEY, BENOIT, BERUBE, BUSTIN, CAREY, CARPENTER, CASSIDY, CIANCHETTE, FERGUSON, GOLDTHWAIT, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LAWRENCE, LORD, MICHAUD, MILLS, O'DEA, PARADIS, PENDEXTER, RUHLIN, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND

NAYS: Senators: CLEVELAND, ESTY, FAIRCLOTH, LONGLEY, McCORMICK, PINGREE, RAND

28 Senators having voted in the affirmative and 7 Senators having voted in the negative, the motion by Senator CARPENTER of York to ACCEPT the Majority OUGHT NOT TO PASS Report, in NON-CONCURRENCE, PREVAILED.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Unassigned matter:

HOUSE REPORTS from the Committee on NATURAL RESOURCES on Bill "An Act to Amend Certain Laws Affecting the Department of Environmental Protection" (EMERGENCY)

H.P. 989 L.D. 1397

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-552). (12 members)

Minority - Ought to Pass as Amended by Committee Amendment "B" (H-553). (1 member)

Tabled - June 22, 1995, by Senator KIEFFER of Aroostook.

Pending - ACCEPTANCE OF EITHER REPORT.

(In House, June 22, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-552) AND HOUSE AMENDMENT "A" (H-549).)

(In Senate, June 22, 1995, Reports READ.)

Senator LORD of York moved that the Senate ACCEPT the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-552) Report, in concurrence.

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

Senator HATHAWAY: Thank you, Mr. President, Ladies and Gentlemen of the Senate. This is a good

bill, I just have one slight difference, which I think can be fixed in a few minutes, if we could. I would urge you to vote against this. The majority report allows for the use of stage two in the three counties that we have talked about here today, the stage two vapor recovery. I just want to point out a couple of things about the stage two vapor recovery. First of all, canisters that will be put in all new automobiles in 1997 will make the stage two vapor recovery system obsolete. Yet we are asking our oil dealers to put in about \$10 million investment so that in two years their investment will become obsolete. Not only are they investing in something that will become obsolete, but they will get no return on that investment. As we have heard many times, people tend to buy their gas where it is not reformulated if they can. I think it would be much wiser for us to ask these companies if they want to invest \$10 million, that they don't just put it into the ground with no return on their investment, but they do something that would help us create new jobs in this State. I've also pointed out that on our 15% reduction plan, which of course we approved the RFG today which is about 3% of that 15%, these same businesses, and our paper industries, and a lot of our businesses across the State have already made a huge investment. In fact, about 10% out of the 15% has already been achieved because of the investment of the industry in this State. The RFG gives us another three and a half. The stage two vapor recovery, of which we are going to ask our businesses to invest another \$10 million, only accomplishes about one half percent out of the 15% of the reduction plan.

As we talked about earlier this morning, the 15% plan seems to be somewhat in jeopardy in the fact that we are now talking about reformulated windshield wiper fluid to try to get that last little bit. Another thing I would like to point out is the health issue. It seems odd to me that we are going to have stage two vapor recovery systems in only three counties, and then only in those stations that sell a million gallons or more, when in fact, what it is supposed to do, at least according to a letter from Dr. Graham, who says, "The odor which some people associate with RFG is attributed to the higher level of the additive in RFG than in regular gasoline. Stage two vapor control is an effective means of protecting people at the pump, from both the odor and the toxic components of gasoline." It seems to me that if we do this for health reasons, why do we limit it only to three counties when we are selling RFGs and MTBs in all seven counties. Why do we limit it only to a million gallons or more. If it's dangerous at the pump, it's dangerous no matter how many gallons are pumped at a station. She goes on to say, "Because these components are higher in concentration than regular gasoline, stage two vapor control is more important from a health perspective where RFG is not sold." Why, then, do we not have stage two vapor recovery all across the state? Just a couple more questions in this argument. I would ask you to consider and I would ask you to please vote against this report. Thank you.

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

Senator LORD: Thank you, Mr. President. With

the less than a million gallons exempt, we will have 54 stations that have to put this on. Now, if my figures are correct, and I believe they are, that's \$1,620,000. I would like to know where this \$10 million cost comes from. The reason we did this, and I think you find that Senator Ruhlin and I worked very hard, very hard, to get this up to a million gallons. We tried to do everything we could to protect the little guy from putting on this stage two system. That's what we did. DEP made a survey, we was afraid they may not come up with the necessary gallons to qualify, and we were told last week that we qualified. Now, the canisters are going to go on the 1997 cars. They will start to be put on in 1996. Because of the fact it is going to take a number of years to get it onto all of the cars, because some of the older cars have got to go out before it's on the other cars, it cannot be used as a way of getting the necessary credits that we need. If you eliminate the stage two there is a hole in the 15%. It has already been said by Senator Hathaway that the EPA is considering a change in the consumer products thing. If this happens we may have to dip into the reserve that we have in place, but we don't know. What we are using is the consumer index that is being used all over the country. If we lose it then everybody else is going to lose. So, this is something that we have to look after. What we are going to do, folks, if you eliminate the stage two you've got a hole in the 15%. Thank you.

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

Senator **HATHAWAY:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I would like to answer those questions if I may. The \$10 million figure was in testimony at the public hearing. In fact, C.N. Brown President, Ginger Doria, in public hearing, testified that her company alone would invest \$2 million under this report. I think it's great to protect the little guy. I think the little guy in this situation is the consumer who is going to be paying more at the pump for stage two recovery. Up to a nickle a gallon more for their gasoline because of stage two. If it is a health hazard, then they are the ones who are going to be there, pumping the gas, unsuspectingly, at all the stations who don't have it. So, it just seems odd to me. Either we should have it, or we shouldn't have it. I would vote that we don't have it. If we should have it, we should have it everywhere. I ask for a Roll Call.

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

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

Senator **RUHLIN:** Thank you, Mr. President, Honorable Senators of the State of Maine. I would point out to you that stage two is a small, but critical, element in the overall 15% BOC reduction plan that we will be submitting to the EPA. We must submit a complete, total, and entire 15% reduction plan. We have no where else to go to make up that 10% of that plan that this stage two recovery produces. You take out stage two, Maine does not have a 15% plan and we have economic sanctions on the

State of Maine. Point one. Point number two, the \$10 million figure that you have heard is erroneous at this point in time. That \$10 million figure, the good Senator from York is fully correct, that was presented to the Committee back when it was conceived that we would probably have to have stage two at gas stations pumping 100,000 plus gallons annually. What they call pump through or put through. Through negotiations, through surveys, through a lot of just plain dogged hard work, we were able to increase that threshold from the 100,000 gallon stations to the 1 million gallon stations. In so doing won a tremendous, I think, reprieve in cost dollars to the oil dealers of this State. It reduced the cost from \$10 million, estimated, to what I would, and it's only my estimation and I'm not sure I am right, I would estimate somewhere around \$1 million. So, the important keys this evening, after a day of discussing clean air and reformulated gas and so forth, to remember is that in the State of Maine the 15% reduction plan really means jobs for the future. It means no federal sanctions on our economy. It means that we can move forward with our economic planning and that this stage two is a vital key element in that 15% reduction plan. If it is removed we do not, I repeat, we do not have a substitute to replace it with. Thank you.

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

Senator **HARRIMAN:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. As I said earlier today, Maine people are prepared to do their fair share to clean up our air, so long as the plan is fair, it's affordable, and that it produces measurable identifiable results. We have spent many hours this afternoon discussing the issues surrounding the Clean Air Act and I have yet to hear anyone prove that the discussions we are having are fair, that they are affordable, and that they produce measurable identifiable results. What troubles me more is that in the pending motion, under Committee Report "A", it says that if the State receives written notice from the United States Environmental Protection Agency disapproving the State's 15% reduction plan, and I would like to add, parenthetically, that the Senator from York, Senator Hathaway, tells us that even with the present proposal before us we do not meet our 15% requirement, or otherwise disallowing reduction credits necessary for approval, the Board shall adopt rules to provide additional controls of emissions as needed to meet the 15% reduction plan requirements, which may include revision or readoption of stage two vapor recovery system rule. The department shall confer with the joint standing committee of the legislature having jurisdiction over natural resource matters before proposing revisions or readoptions of stage two vapor recovery system will, at the threshold, be lower than 1 million gallons per year. What this tells me is that if we adopt this rule, and the EPA does indeed concur with the good Senator from York, Senator Hathaway, that we haven't met our 15% reduction plan, we are going to find this proposal expanding further and wider, and once again it doesn't prove to me that this is fair, that it's affordable, and that it's going to produce measurable results. Thank you.

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

Senator RUHLIN: Thank you, Mr. President, Ladies and Gentlemen of the Senate. I really have to respond to that. If we put a plan in that doesn't hit the 15% target, believe me, they will come here on July 27, it's in the federal law, I can't make it any plainer to you than that. It's written in black and white in the legal language of the United States of America. They will come here on July 27, and the EPA will institute their program that does, in fact, reduce it 15%, and they will run it for the State of Maine, thank you very much, and they will charge you whatever it takes to charge you. You will now have, for every one ton you put up your emission smokestack you will now have to reduce it two tons. How do you like that one for size? They're going to take \$70 million of your highway money. How do you like that one for size? So, you will have a 15% plan, whether we do it or they do it. It's a lot better if we do it, believe me. The good Senator from Cumberland asked if, in fact, we were going to have clean air. It would seem to me, quite obvious, if I reduce my pollution loading into the air by 15%, my air, mathematically, is going to be 15% cleaner. I'm not a rocket scientist, but to me that seems quite clear. I hope I have answered the good Senators questions.

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

Senator CAREY: Thank you, Mr. President. I hold in my hand something that was presented by the Maine Department of Environmental Protection. It is the "Stage Two Gasoline Vapor Recovery Techniques and Equipment". If you turn to the very first page, and you see where you have these super nozzles that will take the gas running to the tank, there is a return line for the vapor that goes back into the underground tank. But lo and behold, at the other end of the underground tank there are vent lines, amazing, that show up and go out near the area of the rear of the gas station. So, in fact, we have taken it away from the poor guy who is pumping the gas, but we still have sent it up into the atmosphere.

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

Senator HATHAWAY: Thank you, Mr. President, Ladies and Gentlemen of the Senate. The good Senator from Penobscot stood, once again, to remind us that if we don't do what we are told by the federal government they are coming after us in July. I say let them come. I represent the people of the State of Maine. I live by the Constitution of the State of Maine. I am sick and tired of us standing here, sitting here, being threatened by our federal government, being held hostage by our federal government. I will ask you one more time to stand tall, to stand firm, and to stand up for the people of the State of Maine. Thank you.

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

Senator LORD: Thank you, Mr. President, my Learned Colleagues. Anybody might think this is just a stage two bill. It isn't a stage two bill, it's an omnibus bill for the Department of Environmental

Protection. If you look at the bill, there are an awful lot of other things in here that are in here to benefit everybody in the State of Maine. I've got two pages and a half, I'd like to take time to read it all but I am not going to. But, there are other things in here that are necessary. It has something to do with the cleaning up of underground tanks. It also has something about accepting the Site Location Development law for development review pursuant to parallel standards enacted by state waste management laws in 1993. It also has something to do with the gravel pit bill. It also has something to do with the underground tank bill. Air quality, shoreland zoning, and the bill makes a slight change in exemption for personal non-profit transactions. The bill also clarifies existing language in proportion to the toxic use of hazardous waste reduction law. There's an awful lot of other stuff in this bill besides just stage two. If you throw it out, the whole omnibus bill for DEP is gone. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator LORD of York that the Senate **ACCEPT the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-552)** Report, in concurrence.

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: ABROMSON, BEGLEY, BUSTIN, CASSIDY, CIANCHETTE, CLEVELAND, FAIRCLOTH, FERGUSON, GOLDTHWAIT, HATHAWAY, LAWRENCE, LONGLEY, LORD, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, PINGREE, RAND, RUHLIN

NAYS: Senators: AMERO, BENOIT, BERUBE, CAREY, CARPENTER, ESTY, HALL, HANLEY, HARRIMAN, KIEFFER, PENDEXTER, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND

Senator HATHAWAY of York requested and received leave of the Senate to change his vote from **NAY** to **YEA**.

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator LORD of York to **ACCEPT the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-552)** Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-552) **READ** and **ADOPTED**, in concurrence.

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

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act Regarding Timothy Harkins and Maine State Retirement System Benefits"
H.P. 1140 L.D. 1583

Reference to the Committee on LABOR suggested and ORDERED PRINTED.

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

On motion by Senator BEGLEY of Lincoln, the Bill and Accompanying Papers were INDEFINITELY POSTPONED, in NON-CONCURRENCE.

Sent down for concurrence.

Joint Order

The following Joint Order:

ORDERED, the Senate concurring, that Bill, "An Act to Modify the Licensure Act for Substance Abuse Counselors," H.P. 1008, L.D. 1419, and all its accompanying papers, be recalled from the Engrossing Department to the House.

H.P. 1141

Comes from the House READ and PASSED.

Which was READ and PASSED, in concurrence.

Joint Resolution

The following Joint Resolution:

JOINT RESOLUTION MEMORIALIZING THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY TO REQUIRE DEVELOPMENT OF A GASOLINE THAT REDUCES OZONE WITHOUT ENDANGERING HEALTH

WE, your Memorialists, the Members of the One Hundred and Seventeenth Legislature of the State of Maine now assembled in the First Regular Session, most respectfully present and petition the Administrator of the United States Environmental Protection Agency, as follows:

WHEREAS, Section 211(k)(1) of the federal Clean Air Act required the United States Environmental Protection Agency to promulgate regulations establishing requirements for reformulated gasoline that reduce emissions of volatile organic compounds and toxics to the greatest extent achievable "taking into consideration the cost of achieving such emission reductions, any non-air quality and other air quality related health and environmental impacts and energy requirements"; and

WHEREAS, the Clean Air Act requires that such gasoline contain a minimum oxygen content of 2.0% by weight; and

WHEREAS, one of the ingredients commonly used to meet the 2.0% oxygen content standard, namely methyl tertiary butyl ether, or MTBE, is suspected of increasing health risks due to contamination of water and air; and

WHEREAS, the increased oxygen content decreases vehicle performance; and

WHEREAS, the Administrator of the United States Environmental Protection Agency has the authority and a duty to control the contents of gasoline; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and request that the Administrator of the United States Environmental Protection Agency revise the regulations for certification of reformulated gasoline to minimize or prohibit use of oxygenates and to achieve the statutory goals of reducing emissions of volatile organic compounds and toxics by means other than increasing the oxygen content of gasoline; and be it further

RESOLVED: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable Carol Browner, Administrator of the United States Environmental Protection Agency, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, and each member of the Maine Congressional Delegation. The Secretary of State shall send a copy of this Memorial to the governor and the legislative leaders of each state that is a member of the ozone transport region, created in Section 184 of the federal Clean Air Act.

(Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 35)

H.P. 1128

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

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

Joint Resolution

The following Joint Resolution:

**JOINT RESOLUTION MEMORIALIZING THE GOVERNOR
OF THE STATE TO PETITION THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY TO REMOVE FROM
THE OZONE TRANSPORT REGION AND REDESIGNATE
TO ATTAINMENT OR RURAL TRANSPORT ALL
AREAS OF THE STATE THAT QUALIFY**

WE, your Memorialists, the Members of the One Hundred and Seventeenth Legislature of the State of Maine, now assembled in the First Regular Session, most respectfully present and petition the Honorable Angus S. King, Jr., Governor of the State of Maine, as follows:

WHEREAS, the federal Clean Air Act imposes stringent and costly ozone control requirements on stationary and mobile sources of ozone precursors throughout the Ozone Transport Region, or OTR, including areas that attain the ozone standard or would attain the ozone standard but for ozone created by upwind states; and

WHEREAS, it is well known that the majority of ground-level ozone and ozone precursors in the State are transported into the State from upwind, out-of-state sources; and

WHEREAS, the imposition of costly OTR ozone control requirements on the citizens and businesses of this State will not significantly contribute to solving ozone problems anywhere in the OTR; and

WHEREAS, in recognition that such a situation may exist, the United States Congress specifically provided in the federal Clean Air Act that the Governor of any state in the OTR may petition the United States Environmental Protection Agency, or EPA, to remove some or all of a state from the OTR; and

WHEREAS, the federal Clean Air Act also establishes a process for redesignating qualifying areas to attainment or to rural transport areas, thereby eliminating certain ozone control requirements in those areas; and

WHEREAS, the Honorable Angus S. King, Jr., Governor of the State, has indicated his intention to request removal from the OTR of any areas of the State that qualify and to request redesignation of all counties of the State that qualify; now, therefore, be it

RESOLVED: That We, your Memorialists, on behalf of the people of the State of Maine urge, encourage and support the Governor to take all steps available under the federal Clean Air Act to remove all areas of the State from the OTR that may qualify for removal and to redesignate all areas of the State to attainment or rural transport areas that may qualify for redesignation; and be it further

RESOLVED: That We, your Memorialists, support the Governor undertaking these efforts in such a manner that those areas for which data and information are more readily available to support redesignation or removal petitions may be the subject of immediate petitions to the United States Environmental Protection Agency, and those areas for which data or information is not readily available may be the subject of subsequent petitions; and be it further

RESOLVED: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable Angus S. King, Jr., Governor of the State of Maine, to the members of the Maine Congressional delegation and to the Honorable Carol Browner, Administrator of the United States Environmental Protection Agency.

(Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 35)

H.P. 1132

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

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Change the Atlantic Sea Run Salmon Commission"

H.P. 922 L.D. 1298

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-607).

Signed:

Senators:

HALL of Piscataquis
KIEFFER of Aroostook

Representatives:

ROTONDI of Madison
JACQUES of Waterville
CLARK of Millinocket

KEANE of Old Town
ROSEBUSH of East Millinocket
TUFTS of Stockton Springs
GREENLAW of Standish
CHICK of Lebanon
PERKINS of Penobscot
UNDERWOOD of Oxford

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

Signed:

Senator:

MICHAUD of Penobscot

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-607) AS AMENDED BY HOUSE AMENDMENT "A" (H-615)**, thereto.

Which Reports were **READ.**

Senator **HALL** of Piscataquis moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Senator **MICHAUD** of Penobscot moved that the Senate **INDEFINITELY POSTPONE** the Bill and Accompanying papers, in **NON-CONCURRENCE.**

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

Senator **MICHAUD:** Thank you, Mr. President, Men and Women of the Senate. Primarily why I am opposed to this bill is this sets up a commission that circumvents the Inland Fisheries and Wildlife process, i.e. if this new commission decides to stock Atlantic salmon in the waters of the State of Maine, it currently will be able to do so without the Department of Inland Fisheries and Wildlife approval. I think this is bad public policy. We are trying to move toward consolidating and streamlining the process, not breaking it away. That's what this L.D. will do. So, hopefully you will support my motion to Indefinitely Postpone. Thank you.

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

Senator **HALL:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. This particular bill has had many hours, many days, of working on by your Inland Fisheries and Wildlife Legislative Committee. We have spent as much time on this bill as any other bill before us this year. We took our time, late in the session here, we just finished meeting last week. We only had sixty bills and we were one of the last Committees to finish. That was by design, so that we could really look into the last four or five bills. We have an Atlantic Salmon Commission now that has been in place for years. If you have been following the sports page, especially, the Atlantic Salmon fishery in the State of Maine has gone drastically downhill in the last few years. It seems

that they really haven't done anything any different. I'm not saying that they are totally to blame, because I think a lot of the Atlantic Salmon are caught out in the ocean commercially, and that has a huge effect on our salmon returning to the rivers, but it's high time that we looked at it. We have looked at it, we have looked at it as a Legislative Committee, we have set up this new authority which is more diverse, it has more members. They will be from all over the state representing the major rivers. The Commissioner of Fish and Wildlife is a member, as the Commissioner of Marine Resources is a member. They have voting privileges on the Committee. Neither one can be the Chair, but they all have voting privileges. The issue that was brought up as far as being able to stock Atlantic Salmon anywhere in the State is true. The Department of Inland Fisheries and Wildlife do have concerns with that, as I do. We have promised to reconvene, of course when we come back in January, look over the situation. The amendment that has been placed on here by the other body does address that in one particular branch of a river. I have two other rivers that I want to address it in, but I am not going to do it with an amendment. I'm going to keep my word and wait until January, sit down with the Department, and we will restrict some of the stocking in some of the areas. I want to set the authority up. I don't want to handcuff them before we get started. I can't do that if you vote on the pending motion to Indefinitely Postpone. I would strongly urge you to consider what your Committee has done with the Atlantic Salmon and are trying to do with the Atlantic Salmon in the State of Maine. I think we are going to do some good but we have to have the opportunity in which to try. Please vote against the pending motion. Thank you.

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

Senator **RUHLIN:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. First of all, I have a confession to make. I'm an addict. I'm not a fisherman, I'm really an addict. I'm addicted to Atlantic Salmon fishing. I have been since I was a kid. Now that I have made that confession it makes me feel a little better to bring it out into the open and discuss it. Through a lifelong history of following the Atlantic Salmon and the Commission and its ups and downs, I have seen a good restoration program put into place. A program that has involved the federal government, local clubs, local river efforts, as well as our Fish and Wildlife and seashore fisheries. I always recognize the need for all of those organization to come together, to work in unison for a specific river goal. In other words, the Penobscot River is different than the Narraguagus River is different than the Dennys River. You have to segregate those rivers and work for a specific river goal. I am very concerned that when you remove the chairman of the Fish and Wildlife Department, that you may weaken that commission. That concerns me. I'm not sure that this bill does that. I would like to have the people who advocate it answer that, if they could. In the past we have had what we called a tack committee group, and I have been a party to those meetings, where the biologists and the federal people and the state people all sit down, sometime in February or March, and plan where the fry

plantings, those are the little tiny salmon, are going to go for that spring, and where the smelts that are going to go out to the ocean are going to be planted. Those are all done with a basis of science, the basis of river health, river environment, what river can stand it, what river can't. It's a decision that is very involved, very painstakingly arrived at. It seems to me that this proposal here may very well by-pass that tack organization. If it doesn't, then I would withdraw my objection and sit down and shut up. If it does, I will assure you that I will be very vehement in my opposition to this proposal and will be voting for Indefinite Postponement. Thank you.

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

Senator **KIEFFER:** Thank you, Mr. President. I attended most of the Committee meetings in regard to this bill. Certainly, there was never any effort to exclude the Department from this. As a matter of fact, I would like to read something to you from this piece of legislation. It says, "Members. The Board has the following members. The Commissioner of Marine Resources, or the Commissioner's designee, the Commissioner of Inland Fisheries and Wildlife, or the Commissioner's designee, three public members, one public member must be chosen from each Congressional district and one public member must be appointed at large." These two Commissioners, Ladies and Gentlemen of the Senate, serve on this committee, with full voting rights, and this was an effort to make these two various organizations work together and cooperate together and see if we can't do something positive for the Atlantic Salmon in the State of Maine.

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

Senator **MICHAUD:** Mr. President, Ladies and Gentlemen of the Senate. I agree with the Senator from Penobscot, Senator Ruhlin. This is a bad bill. The original bill would abolish the Atlantic Salmon Commission and establish an authority to advise the Commissioner. What this amendment does is it puts all of the authority with this new Commission. Mr. President, is this amendment germane to the original bill?

Senate at Ease

Senate called to order by the President.

On motion by **THE CHAIR**, Tabled until Later in Today's Session, pending the motion by Senator **MICHAUD** of Penobscot to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers, in **NON-CONCURRENCE**.

Off Record Remarks

On motion by **THE CHAIR**, under unanimous consent, the Senate **RECONSIDERED** its action whereby it **TOMORROW ASSIGNED FOR SECOND READING** Bill "An Act to Amend Certain Laws Affecting the Department of Environmental Protection" (Emergency) (H.P. 989 L.D. 1397)

House Amendment "A" (H-549) **READ** and **ADOPTED**, in concurrence.

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

Off Record Remarks

Senate at Ease

Senate called to order by the President.

Off Record Remarks

On motion by Senator **LAWRENCE** of York, **RECESSED** until 7:30 o'clock this evening.

After Recess

Senate called to order by the President.

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

SENATE PAPER

Bill "An Act to Require Annual Reporting by the Board of Governors of the Maine Workers' Compensation Residual Market Pool"

S.P. 597 L.D. 1584

ENACTOR

Presented by Senator **McCORMICK** of Kennebec
(Governor's Bill)
Cosponsored by Senator: **ABROMSON** of Cumberland,
Representatives: **CAMPBELL** of Holden, **SAXL** of
Portland

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

Emergency

Reference to the Committee on **BANKING AND
INSURANCE** suggested and **ORDERED PRINTED**.

Which was, under **SUSPENSION OF THE RULES**, **READ
ONCE** without reference to a Committee.

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

Senator **McCORMICK:** Thank you, Mr. President, Men
and Women of the Senate. Just briefly, this is the
companion bill to the workers' compensation fresh
start settlement that we already passed. It was very
important to the Committee to bolster up the public
members of the residual market pool with added
information. This is what this bill does. I hope
that it goes under the hammer. Thank you.

Which was, under further **SUSPENSION OF THE RULES**,
READ A SECOND TIME and **PASSED TO BE ENGROSSED**,
without reference to a Committee.

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

An Act to Change the Commissions Payable to the
State from Off-track Betting

S.P. 240 L.D. 637
(S "A" S-156 to C
"A" S-95)

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

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

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: **ABROMSON**, **BEGLEY**, **BENOIT**,
BERUBE, **CARPENTER**, **CASSIDY**,
CIANCHETTE, **FERGUSON**,
GOLDTHWAIT, **HARRIMAN**, **KIEFFER**,
LAWRENCE, **LONGLEY**, **LORD**,
McCORMICK, **MICHAUD**, **MILLS**,
PARADIS, **PENDEXTER**, **PINGREE**,
RAND, **RUHLIN**, **SMALL**, **STEVENS**,
and the **PRESIDENT**, Senator
BUTLAND

NAYS: Senators: **HALL**, **HANLEY**, **HATHAWAY**

ABSENT: Senators: **AMERO**, **BUSTIN**, **CAREY**, **CLEVELAND**,
ESTY, **FAIRCLOTH**, **O'DEA**

This being an Emergency Measure and having
received the affirmative vote of 25 Members of the
Senate, with 3 Senators having voted in the negative,
and 7 Senators being absent, and 25 being more than
two-thirds of the entire elected Membership of the
Senate, was **PASSED TO BE ENACTED** and having been
signed by the President, was presented by the
Secretary to the Governor for his approval

COMMITTEE REPORT

Senate

Ought to Pass As Amended

Senator **LORD** for the Committee on **NATURAL
RESOURCES** on Bill "An Act to Streamline Permit
Procedures for Freshwater Wetlands in the State"
S.P. 570 L.D. 1544

Reported that the same **Ought to Pass as Amended**
by **Committee Amendment "A" (S-336)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-336) **READ** and **ADOPTED**.

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

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

An Act to Create the Northern New England
Passenger Rail Authority (Emergency)
S.P. 459 L.D. 1255

Tabled - earlier in the day by Senator **BERUBE** of
Androscoggin.

Pending - **ENACTMENT**.

(In House, June 22, 1995, **PASSED TO BE ENACTED**.)

(In Senate, earlier in the day, **RECONSIDERED**
whereby it **FAILED OF ENACTMENT**, in **NON-CONCURRENCE**.)

On motion by Senator **KIEFFER** of Aroostook, Tabled
1 Legislative Day, pending **ENACTMENT**.

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

SENATE REPORTS - from the Committee on **BANKING
AND INSURANCE** on Bill "An Act to Provide for the
Creation of a Health Insurance Purchasing Cooperative"
S.P. 539 L.D. 1477

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

Minority - **Ought to Pass as Amended by Committee
Amendment "A" (S-329)**. (4 members)

Tabled - earlier in the day by Senator **ABROMSON**
of Cumberland.

Pending - the motion by Senator **ABROMSON** of
Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS**
Report.

(In Senate, earlier in the day, Reports **READ**.
Roll Call ordered.)

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

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: **ABROMSON, BEGLEY, BENOIT,
BERUBE, CARPENTER, CASSIDY,
CIANCHETTE, FERGUSON, HALL,
HANLEY, HARRIMAN, HATHAWAY,
KIEFFER, LORD, MILLS, PENDEXTER,
SMALL, STEVENS, and the
PRESIDENT, Senator BUTLAND**

NAYS: Senators: **GOLDTHWAIT, LAWRENCE, LONGLEY,
McCORMICK, MICHAUD, O'DEA,
PARADIS, PINGREE, RAND, RUHLIN**

ABSENT: Senators: **AMERO, BUSTIN, CAREY, CLEVELAND,
ESTY, FAIRCLOTH**

19 Senators having voted in the affirmative and
10 Senators having voted in the negative, with 6
Senators being absent, the motion by Senator **ABROMSON**
of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO
PASS** Report, **PREVAILED**.

Sent down for concurrence.

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

SENATE REPORTS - from the Committee on **HUMAN
RESOURCES** on Bill "An Act to Improve the AFDC Program"
S.P. 548 L.D. 1496

Majority - **Ought to Pass as Amended by Committee
Amendment "A" (S-322)**. (7 members)

Minority - **Ought to Pass as Amended by Committee
Amendment "B" (S-323)**. (6 members)

Tabled - earlier in the day by Senator **PENDEXTER**
of Cumberland.

Pending - the motion by Senator **PENDEXTER** of
Cumberland to **ACCEPT** the Minority **OUGHT TO PASS AS
AMENDED BY COMMITTEE AMENDMENT "B" (S-323)** Report.

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

On motion by Senator **KIEFFER** of Aroostook, Tabled
1 Legislative Day, pending the motion by Senator
PENDEXTER of Cumberland that the Senate **ACCEPT** the
Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE
AMENDMENT "B" (S-323)** Report.

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

Bill "An Act to Place a Spending Cap on State Senate and House Campaigns"

H.P. 322 L.D. 443
(C "A" H-520)

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

Pending - the motion by Senator LAWRENCE of York to ADOPT Senate Amendment "A" (S-324).

(In House, June 23, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-520).)

(In Senate, earlier in the day, Senate Amendment "A" (S-324) READ.)

On motion by Senator KIEFFER of Aroostook, Tabled 1 Legislative Day, pending the motion by Senator LAWRENCE of York to ADOPT Senate Amendment "A" (S-324).

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

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$20,000,000 for Landfill Closure and Remediation"

S.P. 147 L.D. 333
(S "A" S-318 to C
"A" S-306)

Tabled - earlier in the day by Senator LORD of York.

Pending - PASSED TO BE ENGROSSED AS AMENDED.

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

On motion by Senator LORD of York, Tabled 1 Legislative Day, pending PASSAGE TO BE ENGROSSED AS AMENDED.

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

HOUSE REPORTS - from the Committee on LABOR on Bill "An Act to Amend the Occupational Disease Law"
H.P. 957 L.D. 1346

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-416). (7 members)

Minority - Ought Not to Pass. (6 members)

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

Pending - ACCEPTANCE of Either Report.

(In House, June 23, 1995, Bill and Accompanying Papers INDEFINITELY POSTPONED.)

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

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

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

HOUSE REPORT - from the Committee on TRANSPORTATION on Bill "An Act to Amend Laws Pertaining to On-premises Signs by Allowing for Changeable Signs"

H.P. 946 L.D. 1335

Report - Ought to Pass as Amended by Committee Amendment "A" (H-456)

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

Pending - ACCEPTANCE of the Report, in concurrence.

(In House, June 14, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-456).)

(In Senate, June 15, 1995, Report READ.)

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

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

HOUSE REPORTS - from the Committee on BUSINESS AND ECONOMIC DEVELOPMENT on Bill "An Act to Amend the Laws Related to Optometry"

H.P. 590 L.D. 800

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-534). (9 members)

Minority - Ought to Pass as Amended by Committee Amendment "B" (H-535). (4 members)

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

Pending - the motion by Senator GOLDTHWAIT of Hancock to ACCEPT the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-534) Report, in concurrence.

(In House, June 22, 1995, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-534) AS AMENDED BY HOUSE AMENDMENT "A" (H-558), thereto.)

(In Senate, June 23, 1995, Reports READ. Motion to ACCEPT the Minority Report FAILED.)

On motion by Senator KIEFFER of Aroostook, Tabled 1 Legislative Day, pending the motion by Senator GOLDTHWAIT of Hancock to ACCEPT the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-534) Report, in concurrence.

Senate at Ease

Senate called to order by the President.

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

COMMUNICATION

The Following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333-0002

June 26, 1995

The Honorable May M. Ross
Secretary of the Senate
117th Legislature
Augusta, Maine 04333

Dear Madam Secretary:

Senate Paper 234, Legislative Document 599, AN ACT to Reimburse Former Temporary Hearing Officers of the Workers' Compensation Board for Lapsed Vacation Time having been returned by the Governor together with objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the House proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?"

76 voted in favor and 64 against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

Respectfully,

S/Joseph W. Mayo
Clerk of the House

S.C. 261

Which was READ and ORDERED PLACED ON FILE.

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

HOUSE REPORTS - from the Committee on INLAND FISHERIES AND WILDLIFE on bill "An Act to Change the Atlantic Sea Run Salmon Commission"
H.P. 922 L.D. 1298

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-607). (12 members)

Minority - Ought Not to Pass. (1 member)

Tabled - earlier in the day by THE CHAIR.

Pending - the motion by Senator MICHAUD of Penobscot to INDEFINITELY POSTPONE the Bill and Accompanying Papers, in NON-CONCURRENCE. (A Ruling requested.)

(In House, June 23, 1995, the Majority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-607) AS AMENDED BY HOUSE AMENDMENT "A" (H-615), thereto.)

(In Senate, earlier in the day, Reports READ. Senator MICHAUD of Penobscot moved to INDEFINITELY POSTPONE the Bill and Accompanying Papers, in NON-CONCURRENCE.)

THE PRESIDENT: After an extensive investigation, the Chair would rule that the substance of the amendment is germane to the title of the original bill. The Chair recognizes the Senator from Penobscot, Senator Ruhlin.

Senator RUHLIN: Thank you, Mr. President. I would like to ask any member of the Fish and Wildlife Committee who worked on this bill, as to whether or not the new Salmon Authority, or whatever it is being called, could, in fact, stock Atlantic Salmon, in any of the inland waters of the State of Maine and be the sole authority for the planting of those, without the consent, or without the approval of the Fish and Wildlife Department.

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

Senator HALL: Thank you, Mr. President. To answer the good Senator from Penobscot, Senator Ruhlin, presently that is correct. This new Salmon Authority would have the authority to stock Atlantic Salmon fry anywhere they wanted to in the State. There is, if you look up an amendment on the bill, it does restrict them in one river presently. We have said that get this authority in place, get your membership, come back to the Legislative Fish and Wildlife Committee in January. This is a concern that we have. We will address it. We will put restrictions on, I can assure you that I, personally, have some concerns of where these are being stocked. They do have a new plan, the Commissioner of Fish and Wildlife, and they are working on it now, of maybe taking some of these salmon and holding them in pens out in the mouth of some of the larger rivers, and raising them to eight or ten pounds and releasing them and let them come into the river. We have not had a very good success rate, as a matter of fact, the return rate is one half of one percent. They claim that they if they can get one percent return rate it would be great. They can't, they've gotten half of that and the salmon have not returned upriver very far at that. So there is not a benefit to the people who live all along the river. The fishing in our rivers has gone downhill. It's time to make some changes.

One change that this will do is it will incorporate several of the clubs, we have several salmon clubs in the State of Maine who really have had no input into the Atlantic Salmon Commission. We expect them to have a great deal of input into the Atlantic Salmon Authority. As a matter of fact, these clubs can recommend membership to the Governor. The Governor has to appoint the members of this authority, and we are asking these clubs, by the bill, to make recommendations to the Governor of people they would like to have. We feel, also, by them having some input into this new authority, that these clubs will probably even raise some money to put into the Atlantic Salmon Fishery, which they have not been doing. We also have a provision in this bill where the Inland Fisheries Department will continue to offer, continue to provide, the support that they have been providing. Their own estimation is that they have been providing between \$25,000 and \$30,000 support. We wrote into the bill that they will continue that support so that there is not going to be any loss here. Nothing but gains, we hope, but we won't know unless we have the opportunity. We have taken a lot of concerns, a lot of people, and

tried to put it together into a new authority. The answer to your question was presently yes, they may have the authority to stock Atlantic Salmon anywhere, but we will address that in January.

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

Senator RUHLIN: Thank you. With the Chair's indulgence I would ask one more question of the Committee. There's an international group, known as the Atlantic Salmon Federation International, which has a Maine chapter. Does this have their endorsement?

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

Senator MICHAUD: Thank you, Mr. President, Men and Women of the Senate. I didn't hear the question but they opposed the bill. The Atlantic Salmon Federation, when we heard the bill, it was opposed. This is a bad precedent. This bill does establish an authority which has sole authority for management of the Atlantic Salmon fishery. By setting up an authority, that is not going to improve the fisheries of the State of Maine. If we think it is, we are fooling ourselves because it is not. All this bill does is create a separate authority in State Government that we do not need. We have been trying to streamline state government. The Productivity Realization Task Force are looking at areas where we can consolidate, and incidentally, one of the areas we are looking at is putting the Atlantic Salmon Commission underneath, or within, the Department of Inland Fisheries and Wildlife. We are not trying to expand. This is going to expand the bureaucracy and it's not going to help one iota as far as the Atlantic Salmon fisheries within the State of Maine. It does set up a board, the authority, and the membership of that authority is you have one member who resides along the Penobscot River, one on the Saco River, one from Aroostook County, one from Washington County, one from the Passamaquoddy Tribe and the Penobscot Nation, plus the Commissioner of Inland Fisheries and Wildlife and Marine Resources. I don't think the make-up of that new authority is just when you look at the State of Maine as a whole. I think it's very unjust. I would hope that this body would vote to indefinitely postpone because we do not need to start expanding the bureaucracy anymore than what it is. We are trying to streamline it. We do not need this bill. The sponsor of the bill who testified and two other individuals were the only one's who testified in favor of the bill. The Atlantic Salmon Federation also opposed the bill. It's unneeded and I hope you would vote for indefinite postponement. Thank you.

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

Senator HALL: Thank you, Mr. President, Ladies and Gentlemen. I will try to be very short. The Senator from Penobscot, Senator Michaud, gave you a break down of where these new members are coming from. If you don't think that's being more than fair

in getting representation from all over the State, I don't know what would be. I just don't know how you could have it be any more fair. Also, and I'm simply going to remind you that we did spend an enormous amount of time on this. It's a twelve to one report. Eleven other people on that Committee, besides myself, feel that this is the time to make a change and I wish you would consider the hours and their feelings that they all put into this. Thank you.

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

Senator **RUHLIN:** Thank you, Mr. President. Now that I have had a chance to digest the answers to the questions that I asked, I want to thank the gracious Senators from Piscataquis and Penobscot County for responding to my questions. I guess I'm left with these conclusions. First of all, the Atlantic Salmon is a specie which is very unique. It goes on a journey from its native river, 3200 miles to Greenland, circles around, undergoes great peril, great predation, only the fittest survive, a very small percentage return to their native rivers to become the king of all game fishes. Having a little trap or pen at the mouth of a river where you can raise them and release them is not the same thing. It's like going to the cat who had kittens in the oven and calling her kittens biscuits. It doesn't add up. It's not even close, it never will be. The other thing I want to point out, the good Senator from Piscataquis said that this would give the clubs a chance to contribute money. I would like all the members of this Senate to know, the Atlantic Salmon Federation's budget in the State of Maine, all privately raised through dues, runs over \$50,000 a year, just as a thing to help education in school class rooms and to educate people about what salmon are. This is really for small groups of people who show an extraordinary interest and great dedication to the sport. I think the fact that these dedicated people are opposed to this legislation tells me something. I also want to add that I am proud to be one of their members. I guess the real telling point, though, is that we have inland waters in the State of Maine that must be shared, specie selected to the best use of that habitat. There are places where the brook trout is in danger that you do not want added competition from Atlantic Salmon stock as a nursery. There are other places where the Atlantic Salmon could actually utilize under-utilized habitat now for a better use and move the salmon restoration program forward. My problem is, to have one group that is dedicated to the Atlantic Salmon, this so-called salmon authority, to be able to go into some of our prime trout waters that may, in fact, need some help and put Atlantic Salmon in as a competitive specie with brook trout, and Maine is the brook trout capital of the United States, I think, is a very shortsighted policy, even though I am an Atlantic Salmon addict. So, I wish that all of you, from hearing the answer that I heard, will go along with the Indefinite Postponement of this particular piece of legislation. Thank you.

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

Senator **KIEFFER:** Thank you, Mr. President. I

would just like to, once again, point out that this was an effort to bring various groups together and try to make something work for a change. It certainly has not worked under the jurisdiction of our Fish and Wildlife Department. This new board has the two Commissioners, the Commissioner of Marine Resources, the Commissioner of Inland Fisheries and Wildlife, as full voting members, and we sincerely hope that with their leadership that the two entities can be brought together and put Atlantic Salmon where they rightfully should be. There are presently twenty-one associated organizations with the Salmon Federation here in Maine. At first they were opposed to this bill because the two Commissioners were not voting members. That has been changed. They have told me that there are many things in this bill that they did like, but they did not want the two Commissioners to be ex officio members. We have changed that and I have heard absolutely no opposition from them. The twenty-one associated organizations presently are organized statewide. We have ignored them in the past. I belong to one of these organizations in northern Maine. We have raised \$360,000 to build a trap and ladder on the Aroostook River for Atlantic Salmon. Since that time, we have built a hatchery that will handle 300,000 trout or salmon at a time, all volunteer money, all trying to work in cooperation with the Department. In the absence of the amount of funding that we have to facilitate fish hatcheries, I believe this is the wave of the future. I believe we must get these volunteer organizations that are willing to work. All we need is the organization to put them together and to direct their efforts. I believe that's what this group will do. There are twenty-one organizations including three chapters of Trout Unlimited, which we are including in this make-up of board to recommend membership to the Governor. I don't know how much more of an effort we could get to get the cooperation of everyone statewide. We have the volunteer organizations, we have the state entities involved, and if this doesn't work, I'll be back here in two to four years asking it to be dismantled. It doesn't work the way it is, we need some volunteers to work with the State government. This keeps all of the present biologists in place and I believe it is the way to have this effort go forward. I would sincerely hope you defeat this motion so we can go on and vote to accept the twelve to one Committee Report.

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

Senator **MICHAUD:** Thank you, Mr. President, Men and Women of the Senate. When the vote is taken I request a Roll Call. The amendment precludes the Authority from stocking fish in the East Branch of the Penobscot River. I have no problem with them not stocking it, but is this the policy that we want for the State of Maine? I submit not. You hear debate about improving the Atlantic Salmon fishery in the State of Maine and the system is broken. The system is not broken, men and women. The real reason, I believe, behind this bill is over the past few years, under the McKernan Administration, and under this Administration, they have been trying to stock Atlantic Salmon in the Saint John. Both Administrations rejected that idea. If we pass this bill, and that's all this bill, I believe, is

attempting to do, is circumvent that process. They have not been able to convince the biologists. They have not been able to convince the Commissioner of Inland Fisheries and Wildlife. They have not been able to convince two Governors of this State, and there has been an extreme amount of pressure on both of them to allow Atlantic Salmon in the Saint John. If we pass this bill, it will leave it up to the Authority. They will have sole authority on stocking. I think that's wrong. It's bad public policy, and I will not support it. Not only is it bad public policy, but we are expanding the bureaucracy by this new authority, when, in fact, this Legislature has been trying to downsize and streamline state government. We have the Productivity Realization Task Force, we have a study that the Inland Fisheries and Wildlife Committee has put out, which hasn't passed but is on its way to passage. Why should we put this authority in when we have got at least two entities, and I think there is another study coming along on state government, why are we doing this? It's not sound public policy. So, I hope that you would join me in voting to Indefinitely Postpone this bill and all it's papers and send it down the river. Thank you.

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

THE PRESIDENT: The pending question before the Senate is the motion of Senator **MICHAUD** of Penobscot that the Senate **INDEFINITELY POSTPONE** the Bill and Accompanying Papers, in **NON-CONCURRENCE**.

A vote of Yes will be in favor of **INDEFINITE POSTPONEMENT**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

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

NAYS: Senators: **ABROMSON, BEGLEY, BENOIT, CARPENTER, CASSIDY, CIANCHETTE, FERGUSON, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LORD, MILLS, PARADIS, PENDEXTER, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND**

ABSENT: Senator: **AMERO**

15 Senators having voted in the affirmative and 19 Senators having voted in the negative, with 1 Senator being absent, the motion of Senator **MICHAUD** of Penobscot to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers, in **NON-CONCURRENCE, FAILED**.

On motion by Senator **HALL** of Piscataquis the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-607) **READ**.

House Amendment "A" (H-615) to Committee Amendment "A" (H-607) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-607), as Amended by House Amendment "A" (H-615), thereto, **ADOPTED**, in concurrence.

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

Off Record Remarks

On motion by Senator **MILLS** of Somerset, **ADJOURNED** until Tuesday, June 27, 1995, at 9 o'clock in the morning.