

# 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 SPECIAL SESSION  
JOURNAL OF THE SENATE

In Senate Chamber  
Tuesday  
November 28, 1995

In compliance with a proclamation of His Excellency, Governor **ANGUS S. KING, JR.**, the Senators convened in the Senate Chamber at ten o'clock in the morning and were called to order by the President, Jeffrey H. Butland of Cumberland.

Prayer by Rabbi Moshe Wilansky of Chabad Lubavitch of Maine, Portland.

**RABBI MOSHE WILANSKY:** Thank you. Good morning and greetings from Portland. When I usually come up to Augusta I can always notice the State House because of the large dome that it has. Today, of course with the weather, I did not notice the dome. I stopped by one of the stores and tried to ask for directions. The storeowner asked me, "What's going on here today? Everybody is asking for directions."

All mighty God, master of the universe, the members of this august body convene here to fill one of the seven commandments which you first issued to Adam at the time of creation 5,756 years ago and then reissued to Noah and his sons after the great flood, the commandment to govern by just laws. At the dawn of civilization, as related in the Holy Biblical Book, and its commandments, you issued the following seven Noahide Laws, which came to be known as the seven laws of Noah: To worship you alone and not to serve idols; never to disrespect your name; not to murder; not to commit adultery and incest; not to steal, lie or cheat; not to be cruel to any living creature; and that every society govern by just laws which are based in the recognition and acknowledgement of you, God, as the ruler of men and all nations.

We, the citizens of this blessed country of the United States of America, proudly proclaim this recognition and our commitment to justice in our Pledge of Allegiance, "One nation, under God, with liberty and justice for all." Grant us, Almighty, that those assembled here to enact laws to govern this blessed State be aware of your presence and conduct their deliberations accordingly. Bless them with good health, wisdom, compassion, good cheer, and good fellowship. May they constantly realize that in laboring for this enactment of just laws they are doing your will. Amen.

Pledge of Allegiance led by **SENATOR FAIRCLOTH** of Penobscot.

Off Record Remarks

The Secretary read the Proclamation.

STATE OF MAINE  
PROCLAMATION

**WHEREAS**, there exists in the State of Maine an extraordinary occasion arising out of the enactment by the Maine Legislature of a 1996-97 Biennial Budget with a lump-sum General Fund deappropriation of \$45,186,783 to be realized through cost savings generated by improved productivity of state government operations; and

**WHEREAS**, the Legislature enacted Public Law 1995, Chapters 99 and 368 establishing the Productivity Realization Task Force to assist the Executive and the Legislature in realizing these cost savings and describing the procedures for realization of the lump-sum deappropriation of \$45,186,783; and

**WHEREAS**, the Productivity Realization Task Force has submitted a package of recommendations to the Governor and the Legislature designed to achieve a portion of the deappropriation through improved productivity of state employees, more efficient delivery of state services and the elimination of waste, duplication and unnecessary programs in state services; and

**WHEREAS**, the Governor has accepted and implemented many of those recommendations and has prepared legislation to present those recommendations to the Legislature for approval of the necessary changes in law and appropriate amendments to the Budget to reflect the recommendations already implemented by the Executive pursuant to Public Law 1995, Chapter 99; and

**WHEREAS**, this proposed legislation must be enacted by the 117th Legislature prior to the January 1996 Second Regular Session in order to expedite realization of the savings resulting from these recommendations as an essential step toward meeting the lump-sum deappropriation mandated by the Legislature in the 1996-97 Biennial Budget;

**NOW THEREFORE**, I, **ANGUS S. KING, JR.**, Governor of the State of Maine, by the virtue of the constitutional power vested in me as Governor, convene the Legislature of this State, hereby requesting the Senators and Representatives to assemble in their respective chambers at the Capitol in Augusta on Tuesday, the twenty-eighth of November, 1995 at 10:00 o'clock in the morning, in order to receive communications, review the recommendations of the Productivity Realization Task Force and the Governor, enact the proposed legislation submitted by the Governor containing these recommendations or substitute legislation that achieves the same amount of projected savings, and conduct such other legislative business as may seem appropriate.

In testimony whereof, I have caused the Great Seal of the State to be hereunto affixed GIVEN under my hand at Augusta this eighth day of November in the Year of our Lord One Thousand Nine Hundred and Ninety Five.

S/**ANGUS S. KING, Jr.**  
Governor

S/G. William Diamond  
Secretary of State

S.C. 404  
Which was READ and ORDERED PLACED ON FILE.

Off Record Remarks

The Roll being called, the following Senators responded to their name:

**ROLL CALL**

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

30 Senators having answered to the Roll, the President declared a quorum present.

**Off Record Remarks**

Out of Order and under suspension of the Rules, on motion by Senator KIEFFER of Aroostook:

ORDERED, that a message be sent to His Excellency, the Governor, informing him that a quorum of Senators is assembled in the Senate Chamber for the consideration of such business as may come before the Senate.

S.O. 30

Which was READ and PASSED.

The President appointed the Senator from Aroostook, Senator KIEFFER, to deliver the message.

**Senate At Ease**

Senate called to order by the President.

**Off Record Remarks**

At this point, the Senator from Aroostook, Senator KIEFFER, reported that he had delivered the message with which he was charged.

Out of Order and under suspension of the Rules, on motion by Senator AMERO of Cumberland:

ORDERED, that a message be sent to the House of Representatives informing that Body that a quorum of Senators is present for the consideration of such business as may come before the Senate.

S.O. 31

Which was READ and PASSED.

The President appointed the Senator from Cumberland, Senator AMERO, to deliver the message.

**Senate at Ease**

Senate called to order by the President.

At this point, the Senator from Cumberland, Senator AMERO, reported that she had delivered the message with which she was charged.

The Chair noted the presence of Senator LONGLEY of Waldo.

Out of Order and under suspension of the Rules, on motion by Senator LAWRENCE of York:

ORDERED, that a message be sent to the House of Representatives proposing a Joint Convention of both Branches in the Hall of the House at 11:00 o'clock in the morning for the purpose of extending to Governor Angus S. King, Jr., an invitation to attend the Convention and make such communication as pleases him.

S.O. 32

Which was READ and PASSED.

The President appointed the Senator from York, Senator LAWRENCE, to deliver the message.

At this point, a message was received from the House of Representatives, borne by Representative JACQUES of Waterville, informing the Senate that a quorum was present for the consideration of business as might come before the House.

**Senate at Ease**

Senate called to order by the President.

At this point, the Senator from York, Senator LAWRENCE, reported that he had delivered the message with which he was charged.

At this point, a message was received from the House of Representatives, borne by Representative JACQUES of Waterville, informing the Senate that the House concurred in the proposition of a Joint Convention, to be held in the Hall of the House at 11:00 o'clock in the morning for the purpose of extending to Governor Angus S. King, Jr., an invitation to attend the Convention and make such communication as pleases him.

**COMMUNICATIONS**

The Following Communication:

STATE OF MAINE  
OFFICE OF THE GOVERNOR  
1 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0001

November 13, 1995

The Honorable Jeffrey H. Butland  
President, Maine State Senate  
State House Station #3  
Augusta, Maine 04333

The Honorable Dan A. Gwadosky  
Speaker, Maine House of Representatives  
State House Station #2  
Augusta, Maine 04333

Dear President Butland, Speaker Gwadosky, and Honorable Members of the 117th Legislature:

The statute creating the Productivity Realization Task Force requires that the Legislature be immediately notified when I accept Task Force recommendations that require a statutory change to implement. This letter outlines the Task Force recommendations that I have accepted that will require approval of the Legislature prior to implementation.

These statutory changes and the corresponding budget adjustments will be forwarded to the Legislature for consideration during the Special Session called for November 28, 1995. These measures will be included in a bill that will also contain the budget adjustments reflecting the Task Force recommendations that I have already accepted and implemented.

**Department of Administrative and Financial Services**

1. Eliminate the requirement to provide a first aid and health service clinic in the State House complex.

2. Transfer the State Cost Allocation Program from the Bureau of the Budget to the Division of Financial and Personnel Services.

3. Require the Governor, when submitting the budget, to identify the positions that are authorized for less than 52 weeks per year as "Positions - Full-time Equivalent" and positions that authorized for 52 weeks per year as "Positions - Legislative Count".

**Department of Human Services**

4. Authorize the Department of Human Services to pay the legal services for individuals appealing the denial of Federal Supplemental Security Income benefits in order to reduce expenditure of General Assistance and Aid to Families with Dependent Children funds.

5. Change the Division of Public Health Nursing to the Public Nursing Program. The program will operate out of a new division called the Division of Family Health Services which results from combining the Division of Public Health Nursing and the Division of Maternal and Child Health.

6. Eliminate the Division of Dental Health and establish the Oral Health Program within the Division of Health Promotion and Education.

7. Combine the Office of Child Care Coordination with Head Start and create a new Office of Child Care and Head Start. Transfer this new office from the Bureau of Child and Family Services to the Division of Purchased and Support Services.

8. Reduce the number of the Department's regional service delivery areas from five (5) to three (3).

**Department of Marine Resources**

9. Authorize the department to charge a fee at the aquarium at the Marine Resources Research Facility in West Boothbay Harbor, revenues of which will be placed in a fund dedicated to supporting the facility and programs offered there. The fee will be charged to the general public and not to schools.

**Department of Conservation**

10. Merge the Bureau of Public Lands and the Bureau of Parks and Recreation and establish a new Bureau of Parks & Lands.

11. Merge the Natural Areas Program with the Maine Geological Survey into a new Natural Resources Information and Mapping Center.

12. Change the name of the Division of Administrative Services to the Division of General Services.

**Department of Agriculture, Food and Rural Resources**

13. Amend the department's organizational statutes to reflect the new organization consisting of office directors and division directors. Update the list of major policy influencing positions to reflect the new organization as well. Under the new structure, the Deputy Commissioner, the office directors and the division directors will be listed as major policy influencing positions.

14. Allow one of several professional horticulturists to be designated as the "State Horticulturist" but clarifying that this person has no supervisory role with respect to the remaining professional horticulturists.

15. Repeal the State Soil and Water Conservation Commission; transfer the powers, duties and functions

to the Commissioner of Agriculture; retain existing rules and procedures, preserve existing contracts and provide for the transfer of records property and equipment to the Department. These changes will also create the State Conservation District Advisory Council to advise the Commissioner on matters affecting the various Soil and Water Conservation Districts.

16. Repeal the Animal Welfare Board and transfer the Board's responsibilities regarding investigation of pet animal cruelty complaints to the Commissioner. Other powers and responsibilities of the Board, such as the appointment of intermittent humane agents and the operation of a spaying and neutering fund, will also be transferred to the Commissioner. The role as well as the membership of the Animal Welfare Advisory Committee will be expanded. The Committee will include one member who is or has been a licensed veterinarian, and another member who represents the interest of the public in animal welfare.

17. Establish the Maine Potato Board (currently an independent agency within the Department of Agriculture) as a public instrumentality. The potato tax would continue to be collected by the State Tax Assessor and would simply be transferred periodically to the Potato Board.

18. Eliminate the Maine Dairy Promotion Board and the Maine Dairy and Nutrition Council. These programs are funded through a dairy industry tax and would continue to operate much as they currently do. The department would carry-out the programs with the assistance and advice of a new Maine Dairy and Nutrition Advisory Council and a Maine Dairy Promotion Advisory Board. The current staff of the Maine Dairy Promotion Board and the Maine Dairy Nutrition Council would be transferred to the Department's Division of Marketing and Production Development, in order to further coordinate and streamline the dairy promotion and nutrition functions with the similar functions already carried out by the Department.

**Department of Corrections**

19. Clarify the administrative structure at the associate commissioner level by identifying one Associate Commissioner of Corrections responsible for adult services and one Associate Commissioner of Corrections responsible for juvenile services. The Director of Correctional Programs is retitled to Director of Policy, Legislative and Information Services.

20. Require the court to make a determination, whenever a juvenile is committed to the Maine Youth Center or put on probation with a condition of out-of-home placement, as to whether reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the juvenile's home and as to whether continuation in the home is contrary to the welfare of the juvenile. The court must review this determination at least once every 18 months until the juvenile is discharged. These judicial findings are required under federal law to allow states to draw down Title IV-E funds to support children in foster care placements.

21. Require the court to determine whether a parent or legal guardian of a juvenile is able to provide support and to provide for the costs of medical and other treatment for the juvenile and order payment except in cases of excessive hardship.

22. Abolish the Division of Probation and Parole and the position of Director of Probation and Parole and assign certain probation and parole responsibilities to the Commissioner of Corrections and the Associate Commissioners of Corrections.

23. Extend the confidentiality of certain personal information about employees of the Department of Corrections from information in the custody of the department to information in the custody of any agency or public official.

24. Require clients participating in halfway house programs who are also permitted to participate in work release programs to pay the costs of board and the cost of transportation if arranged by the halfway house. Funds received by clients for these costs must be placed in the General Fund.

25. Clarify the purposes of the Maine Youth Center to include protecting the public from dangerous juveniles.

26. Allow the Governor or his designee to order the personnel and equipment of the state military forces necessary to design and construct a security fence around a portion of the existing Maine Youth Center.

27. Authorize the Department of Corrections to enter into financing arrangements for the acquisition of an electronic intrusion system at the Maine State Prison.

28. Authorize the Department of Corrections to enter into financing agreements for the acquisition of computer hardware and software to gain efficiency from improved technology.

29. Authorize the Department of Corrections to establish, providing funds are available, limited-period positions for the purpose of performing duties for which unbudgeted overtime would otherwise be incurred.

30. Authorize the Department of Corrections, in fiscal years 1995-96 and 1996-97, to transfer by financial order appropriated dollars between accounts within the same fund for the purpose of accomplishing the initiatives contained in the departments productivity initiative accepted by the Governor.

**Statewide - Attrition Savings**

31. Authorize the State Budget Officer to calculate and distribute specified deappropriations from salary savings generated by vacancies that occur from projected turnover.

32. Provide for the transfer, by financial order, of salary savings between departments and agencies if projected vacancies from turnover do not occur.

**Statewide - Retiree Health Insurance/Retirement Unfunded Liability**

33. Authorize the State Budget Officer to calculate and transfer the Retiree Health Insurance portion of the Personal Services savings from the productivity plans to the Retiree Health Insurance Fund.

34. Authorize the State Budget Officer to calculate and transfer the Unfunded Actuarial Liability portion of the Personal Services savings from the productivity plans to the new Retirement Unfunded Liability account, to be created in the Department of Administrative and Financial Services.

**Administrative Clusters**

35. Designate the Department of Environmental Protection as the fiscal agent for the Department of Agriculture, Food and Rural Resources and the Department of Conservation.

36. Designate the Department of Public Safety as the fiscal agent for the Department of Defense and Veteran's Services.

37. Designate the Department of Administrative and Financial Services as the fiscal agent for the Governor's Office, Blaine House, State Planning Office and the Department of Economic and Community Development.

**Department of Professional and Financial Regulation**

38. Rename the Division of Licensing and Enforcement to the Office of Licensing and Registration, create a Director position to lead that office and authorize that office to perform licensing functions for other state agencies on a fee for service basis.

39. Clarify the administrative authority of the commissioner to making the commissioner the ultimate appointing authority for the department.

40. Amend the Banking Code to require the Superintendent of Banking to obtain approval from the commissioner before making organizational changes to the bureau and before employing a deputy superintendent and the Securities Administrator. Limit the Superintendent to the appointment of one deputy.

41. Amend the Insurance Code to require the Superintendent of Insurance to obtain the approval of the commissioner before making organizational changes to the bureau and before engaging in the hiring of personnel.

42. Alter the personnel authority of the Real Estate Commission and the Manufactured Housing Board to mirror that of other boards and commissions. Place the Real Estate Commission under the Office of Licensing and Enforcement. Establish fee caps for all boards and commissions within that office, so that they may alter their fees below the cap by rule.

These statutory changes reflect only pieces of the comprehensive productivity plans being recommended by the Productivity Realization Task Force. I'm anxious to share the complete story of this successful redesign of State Government with you as we prepare for the Special Session on November 28th. I look forward to seeing you all then.

Sincerely,  
S/Angus S. King, Jr.  
Governor

S.C. 405

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

The Following Communication:  
117TH LEGISLATURE

July 31, 1995

The Honorable May M. Ross  
Secretary of the Senate  
State House Station #3  
Augusta, ME 04333

Dear Madam Secretary:  
Please be advised that we have made the following appointments:

**Maine Task Force on Defense Realignment and the Economy;** Pursuant to Title 5 MRSA § 3301-E:

Nelson E. Durgin of Bangor

Gregory J. Black of Kennebunk

**Interagency Task Force on Homelessness and Housing Opportunities;** Pursuant to Title 30-A MRSA § 5041:

Mary Ann Chalila of Bangor

Christalyn Cote of Augusta

Edward Rosenthal of Portland



the amendment relates to (A) "the enforcement or application of civil, criminal, or regulatory laws of the Passamaquoddy Tribe . . . and the State within their respective jurisdictions," or (B) "the allocation or determination of governmental responsibility of the State and the tribe . . . over specified subject matters . . ." or (C) "the allocation of jurisdiction between tribal courts and State courts," provided the amendment is made with the agreement of the Passamaquoddy Tribe;

WHEREAS, the legislative changes made by P.L. 1995, c. 388 are deemed beneficial to the Passamaquoddy Tribe;

NOW THEREFORE, BE IT RESOLVED: That, pursuant to the provisions of Title 3, Section 601 of the Maine Revised Statutes and Section 8 of P.L. 1995, c. 388, the Joint Tribal Council of the Passamaquoddy Tribe hereby agrees to and approves the provisions of P.L. 1995, c. 388 enacted by the Maine Legislature, and further directs that a written certification to that effect be prepared, executed and submitted to the Secretary of State of the State of Maine in accordance with the provisions of Title 3, Section 601 of the Maine Revised Statutes forthwith.

CERTIFICATION

I, the undersigned officer designated by the Joint Tribal Council of the Passamaquoddy Tribe pursuant to Title 3, Section 602 of the Maine Revised Statutes, do hereby certify that a meeting of the Joint Tribal Council of the Passamaquoddy Tribe was held at the Indian Township Passamaquoddy Reservation, Washington County, Maine on August 9, 1995, and do further certify that the foregoing resolution was duly adopted by the Joint Tribal Council at that meeting.

Dated: August 10, 1995

ATTEST: S/Frederick J. Moore III  
Certifying Officer

S.C. 398

Which was READ and ORDERED PLACED ON FILE.

The Following Communication:

117TH MAINE LEGISLATURE

August 31, 1995

The Honorable May M. Ross  
Secretary of the Senate  
State House Station #3  
Augusta, ME 04333  
Dear Madam Secretary:  
Please be advised that we have made the following appointments:

**Task Force to Review the Beverage Container Deposit Laws;** Pursuant to Resolve 1995, Chapter 52:

- Representative Thomas M. Davidson of Brunswick
- Representative Ernest C. Greenlaw of Standish
- Representative Jack L. Libby of Kennebunk
- Representative David C. Shiah of Bowdoinham

**Maine Task Force on Defense Realignment and the Economy;** Pursuant to Title 5 MRSA § 3301-E:

- Nicholas Karvonides of Portland
- Don Chappell of Portland
- Charles Roundy of Bangor

**Commission to Study Operations for Preserving the Dairy Industry in the State;** Pursuant to Resolve 1995, Chapter 35:

Senator Jill Goldthwait of Hancock  
Senator Willis Lord of York  
Representative Marge Kil Kelly of Wiscasset  
Representative Robert Spear of Nobleboro  
Representative Thomas Tyler of Windham  
**State House and Capitol Park Commission;** Pursuant to Title 3 MRSA § 901-A:

- Sumner Lipman of Augusta
- David Silsby of Manchester

Please let us know if you have any questions regarding these appointments.

Sincerely,

S/Jeffrey H. Butland S/Dan A. Gwadosky  
President of the Senate Speaker of the House  
S.C. 399

Which was READ and ORDERED PLACED ON FILE.

The Following Communication:

THE MAINE SENATE  
OFFICE OF THE PRESIDENT

August 31, 1995

The Honorable May M. Ross  
Secretary of the Senate  
State House Station #3  
Augusta, ME 04333

Dear Madam Secretary:

Please be advised I have made the following appointments:

**Commission to Study Trespass Laws;** Pursuant to Resolve 1995, Chapter 53:

Senator R. Leo Kieffer of Aroostook

**Task Force on Tax Increment Financing;** Pursuant to Resolve 1995, Chapter 51:

Senator Philip E. Harriman of Cumberland

Senator Richard J. Carey of Kennebec

**Skill Standards Board;** Pursuant to Public Law 1993, Chapter 392:

John V. Oliver of Yarmouth

**Commission to Study the Growth of Tax-Exempt Property in Maine's Towns, Cities, Counties and Regions;** Pursuant to Resolve 1995, Chapter 47:

Senator David L. Carpenter of York

Senator Norman K. Ferguson of Oxford

**Commission on Higher Education Governance;** Pursuant to Public Law 1995, Chapter 395:

Loring Hart of North Yarmouth

David M. Sparks of Falmouth

Richard G. Strout of South Harpswell

Please let me know if you have any questions regarding these appointments.

Sincerely,

S/Jeffrey H. Butland  
President of the Senate  
S.C. 400

Which was READ and ORDERED PLACED ON FILE.

The Following Communication:

STATE OF MAINE  
OFFICE OF THE GOVERNOR  
1 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0001

October 2, 1995

The Honorable Jeffrey H. Butland  
President of the Maine Senate  
#3 State House Station  
Augusta, Maine 04333-0003



The Honorable Dan A. Gwadosky  
Speaker of the Maine House  
#2 State House Station  
Augusta, Maine 04333-0002  
Dear Jeff and Dan,

In accordance with 38 M.R.S.A. §341-C, this letter serves as notice to the Legislature that extension of Osmand Bonsey's term as member of the Maine Board of Environmental Protection is required to ensure fair consideration of several major matters pending before the Board, including: rulemaking pursuant to federal 1990 Clean Air Act Amendments, the Searsport licensing application, LNG project in Wells, the appeal of the Know Road Landowners' Association and rulemaking for Sand Dune permit variances. Mr. Bonsey's term is extended until completion of these applications, or until such a time as his successor is nominated by the Governor and confirmed, whichever occurs first.

Sincerely,  
S/Angus S. King, Jr.  
Governor  
S.C. 401

Which was READ and ORDERED PLACED ON FILE.

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The Following Communication:  
**THE MAINE SENATE**  
**OFFICE OF THE PRESIDENT**  
October 3, 1995

The Honorable May M. Ross  
Secretary of the Senate  
State House Station #3  
Augusta, ME 04333

Dear Madam Secretary:  
Please be advised I have made the following appointments:

**Blue Ribbon Commission on Hunger and Food Security;**  
Pursuant to Resolve 1993, Chapter 74, as amended by  
Resolve 1995, Chapter 36:  
Ned McCann of Hallowell

**Maine Committee for Global and Geographic Education;**  
Pursuant to Resolve 1991, Chapter 34, as amended by  
Public Law 1995, Chapter 430:  
Senator Mary E. Small of Sagadahoc  
Senator Jill M. Goldthwait of Hancock  
Denise Lord of Belgrade  
Pearley A. Lachance of Augusta  
Robert Goddard of Yarmouth  
William Seretta of Portland

**Commission to Study Poverty Among Working Parents;**  
Pursuant to Public Law 1995, Chapter 418:  
Senator Charles Begley of Lincoln  
Senator Georgette Berube of Androscoggin  
Jessica Dwyer of Hallowell  
Wendy Rose of Bowdoinham  
Sonja Christiansen of Auburn  
Raymond Richard of Waterville  
Marc R. Mutty of Portland

**Judicial Compensation Commission;** Pursuant to Public  
Law 1995, Chapter 451:

Ival Cianchette of Cumberland  
Please let me know if you have any questions  
regarding these appointments.

Sincerely,  
S/Jeffrey H. Butland  
President of the Senate  
S.C. 402

Which was READ and ORDERED PLACED ON FILE.

The Following Communication:  
**DEPARTMENT OF LABOR**  
**BUREAU OF LABOR STANDARDS**

October 10, 1995  
The Honorable Jeffrey H. Butland  
President of the Senate  
117th Maine Legislature  
#3 State House Station  
Augusta, ME 04333  
Dear President Butland:

I am pleased to submit the sixth annual report on substance abuse testing in Maine, in accordance with 26 M.R.S.A. Section 690. The report covers the calendar year 1994 which was the fifth full year under the law.

This report was prepared by the Department of Labor, with the assistance of Philip Haines, P.h.D., Director, Health and Environmental Testing Laboratory, Department of Human Services and Thomas Hughes, Employee Assistance Program Coordinator, Office of Substance Abuse. The cooperative efforts of both Dr. Haines, Mr. Hughes, and William Peabody, Deputy Director, Bureau of Labor Standards, goes a long way in explaining the progress to-date in the successful implementation of the law.

If you have any questions or comments about this report, please do not hesitate to contact me at 624-6400.

Sincerely,  
S/Alan C. Hinsey  
Director

S.C. 403

Which was READ and with Accompanying Report  
ORDERED PLACED ON FILE.

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The Following Communication:  
**DEPARTMENT OF EDUCATION**  
**EDUCATION BUILDING**  
**AUGUSTA, MAINE 04333-0023**

October 26, 1995  
The Honorable Jeffrey H. Butland  
President of the Senate  
3 State House Station  
Augusta, Maine 04333-0003  
Dear Senator Butland:

Under the Education Reform Act of 1984, the Commissioner of Education is required to annually publish a report on the status of public education in the State of Maine. The Performance Report on Maine's Public Schools, 1995, is enclosed for your information.

The Task Force on Learning Results, which was established by law, soon will present its final report to the State Board of Education and to the Joint Standing Committee on Educational and Cultural Affairs. The task force was charged to use Maine's Common Core of Learning to specify what all Maine students will be required to know and be able to do by the time they leave school.

Maine's Magnet School for Math and Science Education is in operation; and a task force is developing a plan to implement a school for the arts in the greater Portland area to open in September of 1996.

We are moving to connect all of Maine's high schools to a fiber optics network, and working to involve all segments of society in the education of our children. These initiatives, and many more, are a part of the narrative of this performance report. I hope you

will find the information useful and that you will contact the Department if you need additional information.

Sincerely,  
S/Wayne L. Mowatt, Ed.D.  
Commissioner

S.C. 406

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

The Following Communication:  
**117TH MAINE LEGISLATURE**

November 2, 1995

The Honorable May M. Ross  
Secretary of the Senate  
State House Station #3  
Augusta, ME 04333

Dear Secretary Ross:

Please be advised that we have made the following appointments:

Interagency Task Force on Homelessness and Housing Opportunities; Pursuant to Title 30-A M.R.S.A., §5041:

Jessica Harner of Bath, as a member representing a community action agency; and, Donald H. Gean of Alfred, as a representative of homeless shelters.

Please let us know if you have any questions regarding these appointments.

Sincerely,

S/Jeffrey H. Butland  
President of the Senate

S/Dan A. Gwadosky  
Speaker of the House  
S.C. 407

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

The Following Communication:  
**STATE OF MAINE**  
**DEPARTMENT OF THE SECRETARY OF STATE**

I, the Secretary of State of the State of Maine, do hereby Certify that the paper to which this is attached is a true copy from the records of this office.

In Testimony Whereof, I have caused the Great Seal of the State to be hereunto affixed. GIVEN under my hand at Augusta, this Twentieth day of November in the year of our Lord one thousand nine hundred and ninety-five.

S/Bill Diamond  
Secretary of State

**PENOBSCOT INDIAN NATION**  
Office of the Governor and Council  
Community Building  
Indian Island  
Old Town, Maine 04468

**CERTIFICATION**  
OF RESOLUTION NUMBER **08-01-95-15**

OF THE GOVERNING BODY, OF THE PENOBSCOT NATION

I, the undersigned Tribal Clerk of the Penobscot Indian Nation do hereby certify that a Regular Monthly Meeting of the Governor and Council of the Penobscot Indian Nation was duly convened and held on the 1st day of August, 1995 at which time and acting throughout, Richard Hamilton, Governor of said Nation; Upon Motion duly made, seconded and carried, the

Tribal Council voted unanimously to approve Tribal Court Bill, P.L. 388 An Act Concerning the Jurisdiction of the Tribal Courts of the Passamaquoddy Tribe and the Penobscot Nation, and send on to the General Meeting of the Penobscot Nation.

I further certify that I am the official custodian of certain records including the Minutes of the Meetings of the Council of the Penobscot Indian Nation, a federally recognized and sovereign Indian Tribe and that at the meeting there was present and acting throughout, a quorum authorized to transact business hereinafter described, and that the proceedings of said meeting were in accordance with the Laws of said Nation, and that said resolutions have not been amended or revoked and are in full force and effect. IN WITNESS WHEREOF, I have set my hand as Tribal Clerk and affixed the Tribal seal on August 8, 1995.

S/Lorraine Dana, Tribal Clerk

S.C. 408

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

Off Record Remarks

Senate at Ease

Senate called to order by the President.

At this point, the Senate retired to the Hall of the House, where a Joint Convention was formed.

**AFTER CONVENTION**  
**IN SENATE**

Senate called to order by the President.

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

**PAPERS FROM THE HOUSE**

**House Papers**

Bill "An Act to Clarify the Referendum Recount Process" (Emergency)

H.P. 1149 L.D. 1588

(Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Reference to the Committee on **LEGAL AND VETERANS AFFAIRS** suggested and **ORDERED PRINTED.**

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

Which was referred to the Committee on **LEGAL AND VETERANS AFFAIRS**, in concurrence.

Off Record Remarks

Senator **STEVENS** of Androscoggin was granted unanimous consent to address the Senate off the Record.

Senator **KIEFFER** of Aroostook was granted unanimous consent to address the Senate off the Record.

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

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

Under suspension of the rules, all matters thus acted on were ordered sent forthwith.

Off Record Remarks

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

After Recess

Senate called to order by the President.

The Chair noted the presence of Senator **CIANCHETTE** of Somerset and Senator **ESTY** of Cumberland.

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

**PAPERS FROM THE HOUSE**

**House Papers**

Bill "An Act to Implement the Recommendations of the Productivity Realization Task Force" (Emergency)  
H.P. 1150 L.D. 1589

Bill "An Act to Correct an Error in the Hospital Assessment Program"

H.P. 1151 L.D. 1590

Come from the House, referred to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and **ORDERED PRINTED**.

Which were referred to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**, in concurrence.

Bill "An Act to Implement the Productivity Recommendations of the Department of Transportation and Make Adjustments to Highway Fund Appropriations and Allocations for Fiscal Years 1995-96 and 1996-97" (Emergency)

H.P. 1148 L.D. 1587

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

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

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

**PAPERS FROM THE HOUSE**

**Joint Order**

**ORDERED**, the Senate concurring, that the Joint Standing Committee on Appropriations and Financial Affairs report out a bill or bills related to the Department of Marine Resources "productivity" plan as it has impacts on establishing an Aquarium and Resource Center at West Boothbay Harbor Fund to the House.

H.P. 1152

Come from the House **READ** and **PASSED**.  
Which was **READ**.

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

Senator **LAWRENCE:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I was wondering if someone from the Appropriations Committee could give us an explanation with what is going on with these Joint Orders.

**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 Lincoln, Senator Begley.

Senator **BEGLEY:** Thank you, Mr. President. I will attempt to, sir, to the point of view that this was discussed with the Commissioner with one consideration being given that we were not sure that this fee was productivity, and, therefore, should not be part of the bill. We suggested that it, with her agreement, that it go this passage.

Which was **PASSED**, in concurrence.

**Joint Order**

**ORDERED**, the Senate concurring, that the Joint Standing Committee on Appropriations and Financial Affairs report out a bill or bills authorizing appropriations and allocations for the 1996-97 biennium and to change certain provisions of the law necessary for the operation of the State Government to the House.

H.P. 1153

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

Which was **READ**.

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

Senator **LAWRENCE:** Thank you, Mr. President, Men and Women of the Senate. I wonder if I could impose on the good member again to give me an explanation of this Joint Order.

**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 Lincoln, Senator Begley.

Senator **BEGLEY:** Thank you, Mr. President. This one is a little more difficult. The other one was fairly simple. Again, don't hold me to this because this was an issue that I assume they decided that, again, it was a case of not having it in this fashion, sending it out as a Joint Order, to be sure that it gets its hearing in some fashion.

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

Senator **LAWRENCE:** Thank you, Mr. President, Men and Women of the Senate. Again, I am a little confused. As I understand it, this is items dealing with the Department of Human Services that Appropriations does not consider productivity, so it is being taken out of the budget and put into an account for the Legislature to use during the next session for savings. Is that how I am to understand 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 Lincoln, Senator Begley.

Senator **BEGLEY:** The certain funds that were taken out of the DHS were, again, not considered productivity funds because they were funds that we were going to get anyway from the federal government. The program had started much sooner; and, therefore, it was not, as far as we were

concerned, anything that the Productivity Task Force had any connection with whatsoever, so we suggested that that was the case. We then go back to unexpended surpluses which at that time the Legislature would have the right.

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

Senator **LAWRENCE:** Thank you, Mr. President. I think I understand what the good Senator was saying. My question is, do we now have to make up those amounts of savings in productivity savings, either now or in the next session, in order to meet the goals set for the Productivity Task Force? In other words, is this money being set aside so it can't be counted towards the money for the Productivity Task Force?

**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 Lincoln, Senator Begley.

Senator **BEGLEY:** Mr. President. In answer to the question, no one can fully answer that. The budget of the Productivity Task Force, according to their figures, are well in advance of what is needed. According to the Appropriations Committee, this amount of money, if it is met and the Productivity Task Force does not meet its proposed amount, this money would then point out that the Legislature has saved that amount of money. That is what the bill calls for. If the Productivity Task Force does not meet, then the Legislature has to have it and this is some of the money that could be saved for that.

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

Senator **LAWRENCE:** Thank you, Mr. President. I guess I am having difficulty understanding and I am sure it's my inability to understand the solution. Is the Senator saying that if the Productivity Task Force, say that this amount is a million dollars, if the Productivity Task Force only comes up with \$44 million, then the next session of the Legislature can use this money to apply to the savings that should have been the savings for the Productivity Task Force if they don't come up to their \$45 million?

**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 Lincoln, Senator Begley.

Senator **BEGLEY:** Mr. President, as I understand it, this bill asks for, and we approved a \$45 million cut, \$45.3 million. In the bill it said that if the Legislature, in its wisdom, decided that certain aspects of the Productivity Task Force was not what they supposedly wanted, then it was their responsibility to make and meet the responsibility of the \$45.3 million. If you don't do that then the Task Force automatically goes in and accepts the \$45.3 million anyway. But the Legislature, in its bill, simply said that they, too, have the right to take a look; and if it is not met, then it is up to the Legislature to make that amount of money equal. In this fashion, when they talk about money coming out of DHS, that is one of the points that if it is there we may be able to use it; but the Productivity Task Force, according to its own beliefs, was saying that they are well ahead of the projected figure. That is of this corner, not of the \$45 million, they haven't come up with that yet. They are only playing around now with the smaller amounts.

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

Senator **MICHAUD:** I would like to pose a question through the Chair. Is what the Senator is saying is that he's creating a hole in the \$45 million? That's my first question. My second question is, can he explain more explicitly why this is not counted as productivity? Thank you.

**THE PRESIDENT:** The Senator from Penobscot, Senator Michaud, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Lincoln, Senator Begley.

Senator **BEGLEY:** Thank you, Mr. President. Let me comment on the second point of why it was not considered productivity. The federal money was coming back to us, as I remember the proposal, on a basis that started well before the Productivity Task Force, and it was going to come to us anyway. It was an agreement with the federal government that if this happened, it was coming back. So, the staff of the Appropriations Committee, along with the Appropriations Committee, agreed that that was so; therefore, the Productivity Task Force did not have a right, from our perspective, to take that amount of money under a savings. It did not meet the criteria upon which we based our vote. Is there a hole? The \$45 million does not come to us until probably January or March. Is there a hole in the bill that you are going to have tomorrow or the next day? From what I am told, no.

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

Senator **LAWRENCE:** Thank you, Mr. President, Men and Women of the Senate. Rather than sit here and ask a lot of questions, I would like to move that this be Tabled until later in today's session, so we can get some answers.

On motion by Senator **LAWRENCE** of York, Tabled until Later in Today's Session, pending **PASSAGE**.

**Joint Order**

**ORDERED**, the Senate concurring, that the Joint Standing Committee on Appropriations and Financial Affairs report out a bill or bills related to the Department of Agriculture, Food and Rural Resources "productivity" plan as it has impacts on the Maine Harness Racing Commission to the House.

H.P. 1154

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

**Joint Order**

**ORDERED**, the Senate concurring, that the Joint Standing Committee on Appropriations and Financial Affairs report out a bill or bills related to the Department of Professional and Financial Regulation "productivity" plan as it has impacts on the operations of the department to the House.

H.P. 1155

Comes from the House **READ** and **PASSED**.  
Which was **READ** and **PASSED**, in concurrence.  
(See Action Later Today)

**Joint Order**

**ORDERED**, the Senate concurring, that the Joint Standing Committee on Appropriations and Financial Affairs report out a bill or bills related to the Department of Agriculture, Food and Rural Resources

"productivity" plan as it has impacts on the Animal Welfare Board, Maine Dairy Promotion Board and the Maine Dairy and Nutrition Council to the House.

H.P. 1156

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

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Senate at Ease  
Senate called to order by the President.

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

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Senate at Ease  
Senate called to order by the President.

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On motion by Senator **HARRIMAN** of Cumberland the Senate reconsidered its action whereby it **PASSED**:

**JOINT ORDER** - relative to the Joint Standing Committee on Appropriations and Financial Affairs reporting out a bill or bills related to the Department of Professional and Financial Regulation "productivity" plan as it has impacts on the operations of the department to the House.

H.P. 1155

(In Senate, earlier in the day, **READ** and **PASSED**, in concurrence.)

Senator **HARRIMAN** of Cumberland moved that the Joint Order be **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

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

Senator **HARRIMAN**: Thank you, Mr. President, Ladies and Gentlemen of the Senate. Just to be clear on what we are trying to accomplish with this motion is that the Joint Standing Committee on Business and Economic Development, along with the Joint Standing Committee on Banking and Insurance, were asked by the Appropriations Committee to review Commissioner Longley's recommendations that affected policy decisions that were contained in the Productivity Realization Task Force budget recommendations. The Appropriations Committee separated out those policy issues and had the Commissioner come before our Committee. Both Committees met today, I won't speak for Banking and Insurance, but Business and Economic Development met today and went through the recommendations and unanimously voted, twelve to zero, to accept the recommendations. We then went back before the Appropriations Committee and explained to them what I have just shared with you. The Appropriations Committee asked that we take the Commissioner's recommendations and add them to the Appropriations Bill as a floor amendment. My colleague in the other body has prepared a floor amendment which will be added if and when the Appropriations Committee reports out the Task Force Bill. So, all we are doing here is killing the request to put out a bill which would be more costly, more time consuming, so that it can be added on as a floor amendment. Thank you.

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

Senator **ABROMSON**: Thank you, Mr. President. I just concur with what the good Senator from

Cumberland has said. The Banking and Insurance Committee has also accepted the report of the Commissioner by a twelve to nothing vote.

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

Senator **CAREY**: Thank you, Mr. President. So that I can bring myself up to date, I would like to ask a question of the Senator from Cumberland, Senator **HARRIMAN**. Was this the position that the professional licensing, all the licenses would go to Commissioner Longley's area, and that she would charge a fee for people getting their licenses from her department?

**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 Cumberland, Senator **HARRIMAN**.

Senator **HARRIMAN**: Thank you, Mr. President. To the good Senator from Kennebec, Senator **CAREY**, the answer is yes. The longer answer is that the Commissioner is proposing that all fees that are charged by boards and commissions be statutorily capped at their present level. Currently, as you may know, boards and commissions can change the fees that you may pay for a license through rulemaking. In an attempt to assure you that we are not going to arbitrarily see fee increases, the legislation that will be added in the floor amendment will cap fees at their current levels. If a board or commission wants to increase the fees, for whatever reason, they will have to come back to the Committee of jurisdiction for permission. If they want to lower the fees they will be able to do that on their own. Thank you.

On motion by Senator **HARRIMAN** of Cumberland, the Joint Order was **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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Off Record Remarks

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On motion by Senator **CIANCHETTE** of Somerset, **ADJOURNED** until Wednesday, November 29, 1995, at 10:00 o'clock in the morning.