

# MAINE STATE LEGISLATURE

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# LEGISLATIVE RECORD

OF THE

**One Hundred And Seventeenth Legislature**

OF THE

**State Of Maine**

**VOLUME VI**

**SECOND REGULAR SESSION**

**House of Representatives**

January 3, 1996 to April 3, 1996

**Senate**

January 3, 1996 to March 13, 1996

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

In Senate Chamber

Tuesday

February 20, 1996

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

Prayer by Emily Willoughby of Palermo.

**EMILY WILLOUGHBY:** Desiderata. Found in Old Saint Paul's Church, Baltimore, dated 1692.

"Go placidly amid the noise and haste, and remember what peace there may be in silence. As far as possible, without surrender, be on good terms with all persons. Speak your truth quietly and clearly, and listen to others, even the dull and ignorant, they, too, have their story. Avoid loud and aggressive persons, they are vexations to the spirit. If you compare yourself with others, you may become vain and bitter, for always there will be greater and lesser persons than yourself. Enjoy your achievements, as well as your plans. Keep interested in your own career, however humble. It is a real possession in the changing fortune of time. Exercise caution in your business affairs, for the world is full of trickery. But let this not blind you to what virtue there is. Many persons strive for high ideals, and everywhere life is full of heroism. Be yourself, especially do not feign affection. Neither be cynical about love, for in the face of all aridity and disenchantment, it is as perennial as the grass. Take kindly the counsel of the years, gracefully surrendering the things of youth. Nurture strength of spirit to shield you in sudden misfortune, but do not distress yourself with imaginings. Many fears are born of fatigue and loneliness. Beyond a wholesome discipline, be gentle with yourself. You are a child of the universe, no less than the trees and the stars. You have a right to be here. Whether or not it is clear to you, no doubt the universe is unfolding as it should. Therefore, be at peace with God and whatever you conceive Him to be. Whatever your labors and aspirations, in the noisy confusion of life, keep peace with your soul. With all its sham, drudgery and broken dreams, it is still a beautiful world. Be careful. Strive to be happy.

Pledge of Allegiance led by Halley Elwell of Hallowell.

Reading of the Journal of Thursday, February 15, 1996.

Off Record Remarks

COMMUNICATIONS

The Following Communication:

COMMISSION TO STUDY OPTIONS FOR  
PRESERVING THE DAIRY INDUSTRY IN THE STATE  
MAINE STATE LEGISLATURE  
AUGUSTA, MAINE 04333

February 15, 1996

The Honorable Jeffrey H. Butland  
The Honorable Dan A. Gwadosky  
Maine Legislature  
State House  
Augusta, Maine 04333

Re: Transmittal of the Report of the Dairy Industry Study Commission

Dear President Butland and Speaker Gwadosky,

In accordance with Resolves 1995, chapter 35, this will transmit the report of the Commission to Study Options for Preserving the Dairy Industry in the State.

The Commission found that study of this issue to be most necessary and timely and feels that it is making recommendations that should provide assistance to Maine dairy farms.

Dairy farming is a major contributor to the Maine economy, but it is a declining contributor. Dairy farms had cash receipts of \$92,000,000 in 1993 placing dairy as tied for second among Maine's agricultural commodities with a 20% share but that share has declined 2 percentage points since 1987. Dairy farms directly account for 1,725 jobs and indirectly for 1,846 more. However, Maine has lost 51% of its dairy farms since 1978, and if this loss continues, the industry will no longer be able to support its three feed mills and four dairy processors, which will result in not only the loss of these jobs but an inadequate infrastructure to support the remaining farms.

Dairy farms in Maine face inherent problems that go beyond the national problems of the industry. Maine has poor forage quality, small farms, and high costs for transporting feed and fertilizer. To compensate for these Maine has set its own prices rather than being under the federal program. Unfortunately, processor prices, while still above the Northeast average, have declined 5% since 1989 while expenses have increased 18% resulting in a loss in Maine's net income per farm of 21%, 20% below the Northeast average.

The Commission is recommending the following:

1. Less severe penalties for withdrawal from the Farm Tax Law.
  2. Elimination of the sales tax on farm electricity.
  3. Continuation of the dairy farm appropriation.
  4. Passage of the amended version of "An Act to Authorize a General Fund Bond Issue in the Amount of \$3,000,000 to Agricultural Enterprises in Maine."
  5. Development of a plan to bring hands on management education to the farmers.
  6. A request that the Agricultural Extension Service work on development of better forage.
  7. Additional promotion of milk with emphasis on the Maine Quality Seal, supported with money from the defunct Dairy Stabilization Tax Program.
  8. That the authority of the Dairy Promotion Board & Dairy & Nutrition Council be transferred to a public instrumentality.
  9. A request to the Congressional delegation that they work to have dairy products included in the North American Free Trade Agreement with Canada.
- Coincident with this report, six supporting pieces of legislation are being submitted to the Revisor of Statutes.

The Commission appreciates the opportunity to work on this very important issue for the State and hopes that the Legislature will act favorably on its recommendations.

Respectfully Submitted,  
S/Rep. Robert W. Spear, Chairman  
Commission to Study Options to  
Preserve the Dairy Industry in  
the State  
S.C. 484

Which was **READ** and, with Accompanying Report,  
referred to the Committee on **AGRICULTURE,  
CONSERVATION AND FORESTRY.**

The Following Communication:  
**MAINE STATE LEGISLATURE  
AUGUSTA, MAINE 04333**

February 16, 1996

The Honorable Jeffrey H. Butland  
President of the Senate of Maine  
117th Maine Legislature  
State House  
Augusta, Maine 04333

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and  
with Joint Rule 38 of the 117th Maine Legislature,  
the Joint Standing Committee on Labor has had under  
consideration the nomination of Grover B. MacLaughlin  
of Orono, for reappointment to the Maine State  
Retirement System Board of Trustees.

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

YEAS:	Sen. 2	Begley of Lincoln, Mills of Somerset
	Rep. 8	Hatch of Skowhegan, Tuttle of Sanford, Lemaire of Lewiston, Joy of Crystal, Joyce of Biddeford, Pendleton of Scarborough, Stedman of Hartland, Winsor of Norway

NAYS:	0	
ABSENT:	3	Sen. Rand of Cumberland, Rep. Chase of China, Rep. Samson of Jay

Ten members of the Committee having voted in the  
affirmative and none in the negative, it was the vote  
of the Committee that the nomination of Grover B.  
MacLaughlin of Orono, for reappointment to the Maine  
State Retirement System Board of Trustees be  
confirmed.

Signed:

S/Charles M. Begley  
Senate Chair

S/Pamela H. Hatch  
House Chair  
S.C. 485

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

**THE PRESIDENT:** The Joint Standing Committee on  
**LABOR** has recommended the nomination of Grover B.  
MacLaughlin of Orono be confirmed.

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

In accordance with 3 M.R.S.A., Chapter 6, Section  
151 and with Joint Rule 38 of the 117th Legislature,  
the vote will be taken by the Yeas and Nays.

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

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

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.  
The Secretary will call the Roll.

ROLL CALL

YEAS:	Senator:	None
NAYS:	Senators:	ABROMSON, AMERO, BEGLEY, BENOIT, BERUBE, BUSTIN, CAREY, CARPENTER, CASSIDY, CIANCHETTE, CLEVELAND, FERGUSON, GOLDTHWAIT, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LAWRENCE, LONGLEY, LORD, McCORMICK, MICHAUD, MILLS, PARADIS, PENDEXTER, PINGREE, RAND, RUHLIN, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND

ABSENT: Senators: ESTY, FAIRCLOTH, HALL, O'DEA  
No Senator having voted in the affirmative and 31  
Senators having voted in the negative, with 4  
Senators being absent, it was the vote of the Senate  
that the Committee's recommendation be **ACCEPTED** and  
the nomination of Grover B. MacLaughlin, for  
reappointment to the Maine State Retirement System  
Board of Trustees, was **CONFIRMED.**

The Secretary informed the Speaker of the House.

Off Record Remarks

**SENATE PAPERS**

Bill "An Act to Promote Choice and Quality in  
Long-term Care"

S.P. 707 L.D. 1806

Presented by Senator **PENDEXTER** of Cumberland  
(GOVERNOR'S BILL)

Cosponsored by Representative **TOWNSEND** of  
Portland and Senators: **MICHAUD** of Penobscot,  
**MILLS** of Somerset, **PARADIS** of Aroostook, **PINGREE**  
of Knox, Representatives: **MITCHELL** of Portland,  
**OTT** of York, **WINGLASS** of Auburn

Reference to the Committee on **HUMAN RESOURCES**  
suggested and **ORDERED PRINTED.**

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

Sent down for concurrence.

Bill "An Act to Amend the Charter of the Somerset  
Woods Trustees in Order to Qualify the Charter as a  
Charitable Corporation under Internal Revenue Service  
Rules"

S.P. 706 L.D. 1805

Presented by Senator **MILLS** of Somerset  
Approved for introduction by a majority of the  
Legislative Council pursuant to Joint Rule 27.

Reference to the Committee on **JUDICIARY** suggested  
and **ORDERED PRINTED.**

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

Sent down for concurrence.

Bill "An Act to Grandfather Municipal Ordinances  
Regulating the Spreading of Sludge"

S.P. 705 L.D. 1804

Presented by Senator **LORD** of York  
Cosponsored by Representative **CHICK** of Lebanon  
Approved for introduction by a majority of the  
Legislative Council pursuant to Joint Rule 27.

Reference to the Committee on **NATURAL RESOURCES**  
suggested and **ORDERED PRINTED.**

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

Bill "An Act Concerning the Number of Washington County Commissioners"

S.P. 703 L.D. 1792

Presented by Senator **CASSIDY** of Washington  
Cosponsored by Representatives: **BAILEY** of  
Township 27, **DRISCOLL** of Calais, **LAYTON** of  
Cherryfield, **LOOK** of Jonesboro  
Approved for introduction by a majority of the  
Legislative Council pursuant to Joint Rule 27.  
Reference to the Committee on **STATE AND LOCAL  
GOVERNMENT** suggested and **ORDERED PRINTED**.

Which was referred to the Committee on **STATE AND  
LOCAL GOVERNMENT** and **ORDERED PRINTED**.  
Sent down for concurrence.

Bill "An Act to Extend the Electric Rate Stabilization Projects" (Emergency)

S.P. 704 L.D. 1793

Presented by Senator **KIEFFER** of Aroostook  
Cosponsored by Senators: **AMERO** of Cumberland,  
**CARPENTER** of York, **PARADIS** of Aroostook,  
Representatives: **AHEARNE** of Madawaska, **CLARK** of  
Millinocket, **CLUKEY** of Houlton, **DESMOND** of  
Mapleton, **DONNELLY** of Presque Isle, **KNEELAND** of  
Easton, **KONTOS** of Windham, **MARTIN** of Eagle Lake,  
**O'NEAL** of Limestone, **ROBICHAUD** of Caribou, **SIROIS**  
of Caribou, **WHEELER** of Bridgewater  
Approved for introduction by a majority of the  
Legislative Council pursuant to Joint Rule 27.  
Reference to the Committee on **UTILITIES AND  
ENERGY** suggested and **ORDERED PRINTED**.

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

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

**COMMITTEE REPORTS**

**House**

**Ought to Pass**

The Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Resolve, to Extend Deadlines Relating to the Task Force to Review the Beverage Container Deposit Laws (Emergency)

H.P. 1175 L.D. 1607

Reported that the same **Ought to Pass**.  
Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.  
Which Report was **READ** and **ACCEPTED**, in concurrence.

The Resolve **READ ONCE**.  
The Resolve **TOMORROW ASSIGNED FOR SECOND READING**.

The Committee on **CRIMINAL JUSTICE** on Bill "An Act to Describe Property Posting under the Criminal Trespass and Trespass by Motor Vehicle Laws"

H.P. 1247 L.D. 1709

Reported that the same **Ought to Pass**.  
Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

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

The Bill **READ ONCE**.

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

**Ought to Pass As Amended**

The Committee on **TRANSPORTATION** on Bill "An Act Concerning Portable Scale Tolerances on the Interstate Highway System"

H.P. 1227 L.D. 1680

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-695)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-695)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-695) **READ** and **ADOPTED**, in concurrence.

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

**Senate**

**Ought to Pass**

Senator **MILLS** for the Committee on **JUDICIARY** on Bill "An Act to Clarify Professional Liability"

S.P. 627 L.D. 1634

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

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

The Bill **READ ONCE**.

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

**Ought to Pass As Amended**

Senator **ABROMSON** for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Extend Waivers of Certain Provisions of the Education Laws"

S.P. 634 L.D. 1642

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-433)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-433) **READ** and **ADOPTED**.

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

Senator **MILLS** for the Committee on **JUDICIARY** on Bill "An Act to Reform the Standard of Fiduciary Prudence"

S.P. 615 L.D. 1618

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-432)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-432) **READ** and **ADOPTED**.

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

Senator **PINGREE** for the Committee on **MARINE RESOURCES** on Bill "An Act to Create a Scallop Diving Tender License"

S.P. 655 L.D. 1715

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-430)**.

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

The Bill **READ ONCE**.  
 Committee Amendment "A" (S-430) **READ** and **ADOPTED**.  
 The Bill, as Amended, **TOMORROW ASSIGNED FOR SECOND READING**.

Senator **GOLDTHWAIT** for the Committee on **MARINE RESOURCES** on Bill "An Act Allowing Towns to Form Regional Shellfish Management Committees"  
 S.P. 657 L.D. 1717  
 Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-429)**.  
 Which Report was **READ** and **ACCEPTED**.  
 The Bill **READ ONCE**.  
 Committee Amendment "A" (S-429) **READ** and **ADOPTED**.  
 The Bill, as Amended, **TOMORROW ASSIGNED FOR SECOND READING**.

Senator **HATHAWAY** for the Committee on **TAXATION** on Bill "An Act to Decrease the Paperwork Burden on Maine Businesses by Decreasing the Number of Tax Filings for Retailers"  
 S.P. 79 L.D. 167  
 Reported that the same **Ought to Pass as Amended** by **Committee Amendment "B" (S-431)**.  
 Which Report was **READ** and **ACCEPTED**.  
 The Bill **READ ONCE**.  
 Committee Amendment "B" (S-431) **READ** and **ADOPTED**.  
 The Bill, as Amended, **TOMORROW ASSIGNED FOR SECOND READING**.

**SECOND READERS**

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

**House**

Bill "An Act Pertaining to the Northern New England Passenger Rail Authority"  
 H.P. 1228 L.D. 1681  
 Bill "An Act to Amend the Laws Regarding Drag Limits in South Bay"  
 H.P. 1235 L.D. 1695  
 Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**, in concurrence.

**House As Amended**

Bill "An Act to Encourage Job Creation by Exempting Small Businesses from the Current Workers' Compensation System"  
 H.P. 664 L.D. 887  
 (C "B" H-689)  
 Bill "An Act to Amend the Charter of Milbridge Water District"  
 H.P. 1168 L.D. 1600  
 (C "A" H-690)  
 Bill "An Act to Amend the Bowdoinham Water District Charter to Remove the Debt Limit" (Emergency)  
 H.P. 1170 L.D. 1602  
 (C "A" H-691)  
 Bill "An Act to Amend the Charter of the East Pittston Water District"  
 H.P. 1173 L.D. 1605  
 (C "A" H-692)  
 Bill "An Act to Provide for Confidential Treatment of State and Federal Regulatory Information in the Application Process for Financial Institutions"  
 H.P. 1206 L.D. 1656  
 (C "A" H-694)

Bill "An Act to Repeal an Insurance Law Relating to Motor Vehicle Damage Appraisal"  
 H.P. 1207 L.D. 1657  
 (C "A" H-693)  
 Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**, As Amended, in concurrence.

**Senate As Amended**

Bill "An Act to Clarify the Sales Tax Law Applicable to Packaging"  
 S.P. 207 L.D. 550  
 (C "B" S-427)  
 Bill "An Act to Reestablish the Tax Credit for Intrastate Airlines" (Emergency)  
 S.P. 245 L.D. 642  
 (C "B" S-428)  
 Bill "An Act to Confirm That Nonprofit Health Care Providers May Achieve Cost Savings on Professional and General Liability Coverage"  
 S.P. 651 L.D. 1703  
 (C "A" S-425)  
 Bill "An Act to Correct Omissions in the Productivity Realization Task Force Legislation Relating to the State Soil and Water Conservation Commission and the Animal Welfare Board"  
 S.P. 659 L.D. 1719  
 (C "A" S-426)  
 Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**, As Amended.  
 Sent down for concurrence.

**Off Record Remarks**

**ENACTORS**

The Committee on Engrossed Bills reported as truly and strictly engrossed the following:  
 An Act to Allow Issuance of Duplicate Registrations for Trailers and Semitrailers  
 H.P. 543 L.D. 739  
 (C "A" H-687)  
 An Act to Update and Clarify the Corporate Laws  
 S.P. 619 L.D. 1624  
 (C "A" S-417)  
 An Act to Change the Name of the Maine Youth Apprenticeship Program to the Maine Career Advantage  
 H.P. 1186 L.D. 1627  
 Which were **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 Improve the Local Road Assistance Program  
 H.P. 345 L.D. 465  
 (C "A" H-684)

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

**Mandate**

An Act to Amend the Laws Regarding the Apportionment of Costs of the Mount Desert Island Regional School District among Member Towns  
 S.P. 632 L.D. 1640  
 (S "A" S-422)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 27 Members of the Senate, with No Senator having voted in the negative, and 27 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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Off Record Remarks

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On motion by Senator **LAWRENCE** of York, **RECESSED** until the sound of the bell.

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After Recess  
Senate called to order by the President.

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Off Record Remarks

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**ORDERS OF THE DAY**  
**Unfinished Business**

Out of order and under suspension of the Rules, the following matter in the consideration of which the Senate was engaged at the time of Adjournment has preference in the Orders of the Day and continues with such preference until disposed of as provided by Senate Rule 29.

The Chair laid before the Senate the following Tabled and Specially Assigned (Tuesday, February 13, 1996) matter:

SENATE REPORTS from the Committee on **LABOR** on Bill "An Act to Clarify the Laws Governing the Calculation of Interest on Decrees under the Workers' Compensation Laws"

S.P. 626 L.D. 1633

Majority - Ought to Pass as Amended by Committee Amendment "A" (S-424) (7 members)

Minority - Ought Not to Pass (6 members)

Tabled - February 8, 1996, by Senator **KIEFFER** of Aroostook.

Pending - **ACCEPTANCE OF EITHER REPORT.**

(In Senate, February 8, 1996, Reports **READ.**)

Senator **MILLS** of Somerset moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

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

Senator **MILLS:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. This is a fairly simple, and not very significant, bill that would clarify how interest is calculated when it comes time to award benefits when there has been a significant delay in payment of those benefits under the workers' compensation laws. At present, we have a rather cumbersome procedure in which 10% interest is awarded from the date when an amount of money falls due under the Workers' Compensation Act. The problem with benefits under the Workers' Compensation Act is that they fall due a week at a time, week to week, unlike most civil judgements. In most cases, when you go to court to collect a debt, or to recover money, the judge awards the judgement in a specific amount on a given day. The amount is set and it isn't difficult to calculate the interest on a single amount. Workers' compensation proceedings, however, are

unusual in that the amount of money that falls due is accumulated from week-to-week-to-week at a time. This is true, not only of the weekly indemnity benefits, or wage replacement benefits that are payed to the injured employee, it is also true of many of the medical expenses that fall due. Therapy bills will often times fall due on a periodic basis in a fashion quite similar to the way in which weekly benefits are accumulated. As a result, if you have a situation where benefits have accumulated over a period of a year or two years, and sometimes even three years, you have to treat each weekly benefit as a separate award and calculate interest at the rate of 10% per annum from the date when the benefit fell due. It is such a cumbersome and difficult procedure that as a practical matter, it is something which is quite often not collected, particularly if the benefits has only been due for a few months. It is also unclear, under our law, whether a medical provider under the current law, someone who has provided therapy or surgery or office benefits or pharmaceutical benefits, whether a medical provider can collect interest under the way the law is presently worded. If you have a situation where the injured employee has paid for his own medical expenses, perhaps on a credit card or the like, it is not clear from the present wording of our statute whether the interest on the medical benefit can be collected successfully under a workers' compensation award.

In order to try to bring some rationality and to try to simplify the method by which interest might be calculated, the bill proposes that all benefits that may fall due within a given month be treated as a block and that interest be calculated, using the rate of 1% a month, which means that all you have to do is multiply the number of months and then adjust a decimal point in order to make the calculation. Because the rate, the effective annual rate under such a plan is 12% rather than 10%, the bill makes an adjustment and gives a grace period at the beginning of the time when the benefit falls due, and essentially provides that every benefit will have at least a month, somewhere between thirty and sixty days, as an initial grace period before any interest begins to accumulate at all. Which, frankly, is current business practice. If somebody sells you some fuel oil you don't get compelled to pay interest from the first day that the oil is delivered. They usually give you a month to pay the bill, or a month and a half or two months sometimes, before anybody seriously charges you any interest. The same is true with credit card transactions. The ameliorative impact of this bill is that it will more closely, if we pass this bill, then the payment of interest under the workers' compensation law will more closely parallel a commercial setting. There will be a grace period in which the carrier will not have to pay interest for the first thirty to sixty days. Following that grace period, the interest will be calculated on a simple monthly basis with benefits that accumulate during each month, whether they be medical or weekly benefits, or what have you, will be aggregated and carried forward as a block. It will, in a sense, make things a lot simpler than they are today.

We were informed in Committee by some of the insurance carriers that a few of them have a computer program which they say will calculate the interest, but I think that begs the question. Certainly,

unrepresented employees don't have computer programs of that sort and won't be able to parallel the calculation. Secondly, no matter what you have for a computer, somebody has to sit down and make an individual entry for each week in order to feed the computer in order to make the calculation. This new method that is proposed in the bill will make it a lot easier to do the interest calculation and it will make it easier to accumulate the benefits and carry them forward for a rational assessment of interest. I hope that no one will regard it as any effort to increase or change the level of workers' compensation benefit exposure under the workers' compensation laws. It is intended, primarily, as a procedural adjustment for how assessed benefits can be calculated. That is how such interest benefits can be calculated. Thank you for your patience for listening to this overly long and complex explanation.

Senator BEGLEY of Lincoln moved that the Bill and all of its accompanying papers be **INDEFINITELY POSTPONED**.

**THE PRESIDENT:** The Chair recognizes the Senator from Lincoln, Senator Begley.

Senator BEGLEY: Thank you, Mr. President. When the bill was heard before the Labor Committee, with the exception of the sponsor, there were no other proponents. The point of the simplistic attitude of figuring 1% per month was brought up and pointed out, naturally, that this potentially could be an increase of 2%, since the rate now is 10%. Those industries that spoke against the bill pointed this out. It was one of those cases where now workers' comp is generally going down in expense, and we certainly did not want to see any potential increase. It is a potential increase, whether it is an actual one or not. The point of tabulation, those industries that tabulate said that it is very simple. If anybody were working on it, all they would have to do is call them and the process is handled extremely quickly and efficiently without any problems. Their computer systems are doing it constantly in that fashion. In the word of the sponsor himself, the bill is of no real consequence except for simplistic. My motion is to indefinitely postpone and I hope you will vote with it.

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

Senator RAND: Thank you, Mr. President, Men and Women of the Senate. I hope you reject the motion to indefinitely postpone this bill. This really is exactly as the good Senator from Somerset has described it to you. There are two reasons why I am supporting this bill. One is when the 1993 workers' comp reform was passed, I believe one of the down sides of that was that we now have a large number of injured employees, injured workers, who are unable to access the skills of an attorney. Of course, the insurance industry has their batteries of attorneys at all times. It really is an unlevel playing field. That certainly shows up when we are talking about the calculation of interest in these benefits. The industry that testified in opposition to this bill was, needless to say, the insurance industry. They have a magical solution and a magical way of figuring this interest on the weekly basis; and according to one of the representatives, it only takes a few minutes. There is nothing to it. My problem is that the injured worker has to accept that amount. There is no way that a person without access to a lot of equipment and a lot of mathematical

expertise could figure this amount out on their own. The second reason that I am in support of this legislation is that the insurance industry themselves admitted that they didn't have any idea what they pay in interest now, and they certainly don't have any idea what they would be paying if this legislation passed. They did indicate that there was maybe a possibility that it might cost some money; but by the same token, there is the same possibility with the grace period that has been built in by Senator Mills, that it won't cost them a penny more. In fairness to injured workers, in fairness to people who have to work on their own legal defenses when it comes to workers' comp, and even in fairness to the attorneys who have to work on these cases, this is a very simple piece of legislation; and I would urge you to reject the pending motion so that we can go on to accept the majority ought to pass report.

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

Senator CAREY: Thank you, Mr. President. May I pose a question through the Chair to the Senator from Somerset, Senator Mills? If I understood correctly, Senator, you said that some of these claims go two and three years. Was there any thought at all given to, since some of these charges would, in fact, be termed legitimate by both the insurance company and the claimant, could there be a process where there are partial payments made along the way? Many of the claimants are, in fact, pressured by the hospitals and everything to settle up and they are concerned about losing their property and what have you. Was there any question at all brought up about partial payments along the way? Maybe the 10% would, in fact, hasten those payments.

**THE PRESIDENT:** The Senator from Kennebec, Senator Carey, has posed a question through the Chair to the Senator from Somerset, Senator Mills, should he choose to answer. The Chair recognizes the Senator from Somerset, Senator Mills.

Senator MILLS: Thank you, Mr. President, Men and Women of the Senate. There is nothing under the current law that would compel the carrier to pay either partially or wholly until there is a decree. In some cases, if they feel they are partially responsible for an injury, and there is also some other carrier that may be on the list, or if they may disagree concerning the duration of the disability, then they may well pay, and in many cases they do pay partial benefits or part of the benefit for a period of time and then shut the employee off. That's the current system. Now, there is no interest that would ever be charged under any system on the benefits that are paid partially; however, there are other cases where there is nothing paid simply because the carrier may not view the case as one appropriate for compensation in the first place. Those are the cases where there are delays, sometimes of a year or two years. I would say rarely two and a half or three years. In those instances, I think it is correct to say that the interest rate would gradually creep over 10%, up toward 11% or 11 1/2%. It would never reach 12% because you always have that first month or two in which there would be no interest due. I might point out that this bill actually is for a rate decrease on any amount that is paid within the first eight or ten months. There is no interest that would be due for the first month to two months, depending on which calendar month you are dealing with. That's new. So on short term claims, where the carrier has



felt that there is a need to obtain records, examine those records, exchange them for information or what have you, in all of the routine cases that are paid with reasonable promptness, there would now be no interest due. I think statistically you would find that 90% of the cases fall into that category. So, for 90% of the cases that are handled, this will eliminate any legal requirement to pay any interest at all. Now, for those claims that are delayed in payment for a period of, let's say two months to ten months, it will be a decrease from the current level of 10% because you get the first month or two for free, and you only start charging interest after the grace period. For that reason, you don't get up to 10% until the time has elapsed for at least eight or ten months, according to my calculations. So, in essence, only those claims, and there are very few of them, those that go on for a year or more, then the interest rate would begin to climb up over 10%, but I suggest that the amount of money at stake for that tiny increment is miniscule in comparison with all of the claims on which there would be no interest due at all, those that are paid with reasonable promptness, which is the vast majority of claims. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Lincoln, Senator Begley.

Senator **BEGLEY:** Thank you, Mr. President. I would simply like to remind the men and women of the Senate that there is no hew and cry for any abuse or change wanted by labor or anyone else in the hearing. The potential is still there, Ladies and Gentlemen, of going from 10% to 12%, a possibility of a 2% increase regardless. If there were any real concern, you would have heard from those people who supposedly have been abused. You did not. The simplistic idea is handled exclusively now by the companies and they invite anybody at all to use their expertise. Thank you.

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

Senator **HARRIMAN:** Thank you, Mr. President. Good morning Ladies and Gentlemen of the Senate. I rise to support the pending motion and am doing so for a couple of reasons. First, I want to say thank you to the Senator from Somerset, Senator Mills. I can appreciate that perhaps in his private life this is an area where perhaps he has some special expertise and believes that this is a responsible and reasonable way to better handle outstanding workers' compensation claims and medical claims. As the good Senator from Cumberland, Senator Rand, pointed out, I certainly can empathize with the injured worker who is trying to maintain their lifestyle. I also have empathy for the health care provider, or the rehabilitative specialist, who are working with our injured workers to help them get back into our economy. To be honest, I think that neither of these points are worthy of me reversing the pledge that I have made to my constituents to leave the workers' compensation system alone and let it have an opportunity to work. In fact, I think you will agree with me, since the legislature has stopped meddling in the workers' compensation system, we have seen dramatic, measureable positive results. For those reasons, Mr. President, I will be supporting the pending motion. Thank you.

On motion by Senator **MILLS** of Somerset, 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 **BEGLEY** of Lincoln to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers.

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, AMERO, BEGLEY, BENOIT, CARPENTER, CASSIDY, CIANCHETTE, FERGUSON, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LORD, PENDEXTER, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND**

**NAYS:** Senators: **BERUBE, BUSTIN, CAREY, CLEVELAND, GOLDTHWAIT, LAWRENCE, MICHAUD, MILLS, O'DEA, PARADIS, PINGREE, RAND, RUHLIN**

**ABSENT:** Senators: **ESTY, FAIRCLOTH, LONGLEY, McCORMICK**

18 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 4 Senators being absent, the motion by Senator **BEGLEY** of Lincoln to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers, **PREVAILED**.

Sent down for concurrence.

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Off Record Remarks

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Senator **AMERO** of Cumberland 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.

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

**PAPERS FROM THE HOUSE**

**House Papers**

Bill "An Act to Provide for the 1996 and 1997 Allocations of the State Ceiling on Private Activity Bonds" (Emergency)

H.P. 1317 L.D. 1801

Bill "An Act to Consolidate and Improve Delivery of International Trade Services in Maine"

H.P. 1318 L.D. 1802

Reference to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** suggested and **ORDERED PRINTED**.

Come from the House, referred to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**.

Which were referred to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT**, in concurrence.

Bill "An Act to Facilitate the Lawful Detention of Juveniles" (Emergency)

H.P. 1312 L.D. 1796

Reference to the Committee on **CRIMINAL JUSTICE** suggested and **ORDERED PRINTED**.

Comes from the House, referred to the Committee on **CRIMINAL JUSTICE** and **ORDERED PRINTED**.

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

Resolve, to Recognize the Maine School for the Arts and the Maine High School for the Arts (Emergency)

H.P. 1316 L.D. 1800

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.

Bill "An Act to Clarify the Laws Pertaining to the Regulation of Narcotic Dependency Treatment Programs"

H.P. 1311 L.D. 1795

Reference to the Committee on **HUMAN RESOURCES** suggested and **ORDERED PRINTED**.

Comes from the House, referred to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED**.

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

Bill "An Act Concerning Notice in Foreclosure Proceedings"

H.P. 1315 L.D. 1799

Reference to the Committee on **JUDICIARY** suggested and **ORDERED PRINTED**.

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

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

**Pursuant to Public Law  
MAINE HEALTH CARE REFORM COMMISSION**

The **MAINE HEALTH CARE REFORM COMMISSION**, pursuant to the Public Law 1993, chapter 707, Part AA, section 5, asked leave to submit its findings and report, pursuant to Joint Rule 20, that the accompanying Bill "An Act to Create a Multi-payor System for Universal Health Care"

H.P. 1314 L.D. 1798

Be referred to the Committee on **BANKING AND INSURANCE** for Public Hearing and printed.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill referred to the Committee on **BANKING AND INSURANCE** and **ORDERED PRINTED**.

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

The Bill referred to the Committee on **BANKING AND INSURANCE**, in concurrence.

**Pursuant to Public Law  
MAINE HEALTH CARE REFORM COMMISSION**

The **MAINE HEALTH CARE REFORM COMMISSION**, pursuant to Public Law 1993, chapter 707, Part AA, section 5, asked leave to submit its findings and report, pursuant to Joint Rule 20, that the accompanying Bill "An Act to Create a Single-payor System for Universal Health Care"

H.P. 1319 L.D. 1803

Be referred to the Committee on **HUMAN RESOURCES** for Public Hearing and printed.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill referred to the Committee on **BANKING AND INSURANCE** and **ORDERED PRINTED**.

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

The Bill referred to the Committee on **BANKING AND INSURANCE**, in concurrence.

**Pursuant to Resolve  
LAND AND WATER RESOURCES COUNCIL**

The **LAND AND WATER RESOURCES COUNCIL**, pursuant to Resolve 1995, chapter 21 asked leave to submit its findings and report, pursuant to Joint Rule 20, that the accompanying Resolve, Directing the Land and Water Resources Council to Take Steps Needed to Ensure Successful Implementation of State Land Use Law Reforms

H.P. 1310 L.D. 1794

Be referred to the Committee on **NATURAL RESOURCES** for Public Hearing and ordered printed.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill referred to the Committee on **NATURAL RESOURCES** and **ORDERED PRINTED**.

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

The Bill referred to the Committee on **NATURAL RESOURCES**, in concurrence.

**Pursuant to Resolve  
TASK FORCE ON TAX INCREMENT FINANCING**

The **TASK FORCE ON TAX INCREMENT FINANCING**, pursuant to Resolve 1995, chapter 51, section 9 asked leave to submit its findings and report, pursuant to Joint Rule 20, that the accompanying Bill "An Act to Implement the Recommendations of the Task Force on Tax Increment Financing"

H.P. 1313 L.D. 1797

Be referred to the Committee on **TAXATION** for Public Hearing and ordered printed.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill referred to the Committee on **TAXATION** and **ORDERED PRINTED**.

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

The Bill referred to the Committee on **TAXATION**, in concurrence.

Pursuant to Senate Rule 1, the President appointed Senator **SMALL** of Sagadahoc as President Pro Tem for the next Legislative Day.

On motion by Senator **BUSTIN** of Kennebec, **ADJOURNED** until Thursday, February 22, 1996, at 10:00 o'clock in the morning.