

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Seventeenth Legislature

OF THE

State Of Maine

VOLUME VII

SECOND REGULAR SESSION

Senate

March 14, 1996 to April 3, 1996

SECOND CONFIRMATION SESSION

August 1, 1996

SECOND SPECIAL SESSION

House of Representatives

September 5, 1996 to September 7, 1996

Senate

September 5, 1996 to September 7, 1996

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HOUSE AND SENATE LEGISLATIVE SENTIMENTS

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

In Senate Chamber
Tuesday
March 19, 1996

Senate called to Order by the Secretary, **MAY M. ROSS.**

Pursuant to Senate Rule 1, the Senator from Aroostook, **SENATOR R. LEO KIEFFER**, was appointed to preside as President Pro Tem.

The Secretary requested the Sergeant-at-Arms to escort the Senator from Aroostook, Senator **KIEFFER**, to the Rostrum where he assumed the duties as President Pro Tem.

Senate called to Order by the President Pro Tem, **R. Leo Keiffer** of Aroostook.

Prayer by the Honorable **Norman K. Ferguson, Jr.** of Oxford.

SENATOR FERGUSON: Thank you. A couple of weeks ago the President asked me if I would be interested in giving the prayer. I said I would if it was okay to give it in Gaelic. He said I may. I am not capable of giving the whole prayer in Gaelic, but I can give a greeting. *Cia mar a Tha sibh.*

Dear Lord, we ask for Your divine guidance in our deliberations. We ask that we may do our work in a spirit of cooperation and Your good and gracious hand will guide us in that endeavor. Lord, we thank You for the bounty that You have bestowed upon this State and nation. Amen.

Pledge of allegiance led by **SENATOR CARPENTER** of York.

Reading of the Journal of Thursday, March 14, 1996.

COMMUNICATIONS

The Following Communication:
117TH MAINE LEGISLATURE
March 15, 1996

Senator Norman Ferguson
Representative Harry True
Chairpersons
Joint Standing Committee on
Legal and Veterans Affairs
117th Legislature
Augusta, Maine 04333

Dear Senator Ferguson and Representative True:
Please be advised that Governor Angus S. King, Jr. has nominated Edwin W. Bowden of Camden for reappointment and the Honorable Orland G. McPherson of Eliot for appointment as members of the State Liquor and Lottery Commission.

Pursuant to Title 8 MRSA, Sections 373 & 374, these nominations will require review by the Joint Standing Committee on Legal and Veterans Affairs and confirmation by the Senate.

Sincerely,
S/Jeffrey H. Butland
President of the Senate
S/Dan A. Gwadosky
Speaker of the House
S.P. 757

Which was **READ** and referred to the Committee on **LEGAL AND VETERANS AFFAIRS.**
Sent down for concurrence.

The Following Communication:
MAINE STATE LEGISLATURE
AUGUSTA, MAINE 04333
March 18, 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 Natural Resources has had under consideration the nomination of Alice H. Rand of Cape Elizabeth, for reappointment to the Land for Maine's Future Board.

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	Lord of York, Ruhlin of Penobscot
	Rep.	8	Dexter of Kingfield, Gould of Greenville, Poulin of Oakland, Shiah of Bowdoinham, Damren of Belgrade, Meres of Norridgewock, Marshall of Eliot, Waterhouse of Bridgton

NAYS:	0	
ABSENT:	3	Sen. Hathaway of York, Rep. Berry of Livermore, Rep. Nickerson of Turner

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 Alice H. Rand of Cape Elizabeth, for reappointment to the Land for Maine's Future Board be confirmed.

Signed:
S/Willis A. Lord
Senate Chair
S/Edward L. Dexter
House Chair
S.C. 524

Which was **READ** and **ORDERED PLACED ON FILE.**
On motion by Senator **AMERO** of Cumberland, Tabled until Later in Today's Session, pending **FILING.**

SENATE PAPERS

Resolve, to Extend the Reporting Deadline of the Export Financing Services Study Group (Emergency)
S.P. 752 L.D. 1865

Presented by Senator **LONGLEY** of Waldo
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.
Reference to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** suggested and **ORDERED PRINTED.**
Which was referred to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and **ORDERED PRINTED.**
Sent down for concurrence.

Bill "An Act to Establish a Review Process for Certification of Political Petitions"
S.P. 756 L.D. 1867

Presented by Senator **LAWRENCE** of York
Approved for introduction by a majority of the
Legislative Council pursuant to Joint Rule 27.
Reference to the Committee on **LEGAL AND VETERANS
AFFAIRS** suggested and **ORDERED PRINTED**.
Which was referred to the Committee on **LEGAL AND
VETERANS AFFAIRS** and **ORDERED PRINTED**.
Sent down for concurrence.

Bill "An Act to Establish a General Permit for
Agricultural Irrigation Ponds" (Emergency)
S.P. 748 L.D. 1858
Presented by Senator **KIEFFER** of Aroostook
Cosponsored by Representative **DONNELLY** of Presque
Isle and Senator: **PARADIS** of Aroostook,
Representatives: **AHEARNE** of Madawaska, **CLARK** of
Millinocket, **CLUKEY** of Houlton, **DESMOND** of
Mapleton, **DRISCOLL** of Calais, **JOY** of Crystal,
KNEELAND of Easton, **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 **NATURAL RESOURCES**
suggested and **ORDERED PRINTED**.
Which was referred to the Committee on **NATURAL
RESOURCES** and **ORDERED PRINTED**.
Sent down for concurrence.

Off Record Remarks

Bill "An Act to Authorize the Disposition of
Property Interests at the Pineland Center"
S.P. 749 L.D. 1859
Presented by Senator **BUTLAND** of Cumberland
(GOVERNOR'S BILL) Cosponsored by Representatives:
AIKMAN of Poland, **DUNN** of Gray, **GWADOSKY** of
Fairfield, **HARTNETT** of Freeport, **TAYLOR** of
Cumberland
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.

Resolve, to Reimburse a Lumber Company in
Connection with Sales Tax Paid by the Company
S.P. 747 L.D. 1857
Presented by Senator **BEGLEY** of Lincoln
Approved for introduction by a majority of the
Legislative Council pursuant to Joint Rule 27.
Reference to the Committee on **TAXATION** suggested
and **ORDERED PRINTED**.
Which was referred to the Committee on **TAXATION**
and **ORDERED PRINTED**.
Sent down for concurrence.

Pursuant to Joint Order
JOINT STANDING COMMITTEE ON
EDUCATION AND CULTURAL AFFAIRS

Senator **SMALL** for the **JOINT STANDING COMMITTEE ON
EDUCATION AND CULTURAL AFFAIRS**, asked leave to
report, pursuant to Joint Order S.P. 722, that the
accompanying Bill "An Act to Improve the Child
Development Services System"
S.P. 753 L.D. 1866

Be referred to the Committee on **EDUCATION AND
CULTURAL AFFAIRS** and printed under Joint Rule 2.
Which Report was **READ** and **ACCEPTED**.
The Bill referred to the Committee on **EDUCATION
AND CULTURAL AFFAIRS**.
Sent down for concurrence.

Off Record Remarks

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

COMMITTEE REPORTS
House
Divided Report

The Majority of the Committee on **TAXATION** on Bill
"An Act to Exempt Farms from the Sales Tax on
Electricity"

H.P. 1293 L.D. 1775

Reported that the same **Ought to Pass as Amended
by Committee Amendment "A" (H-766)**.

Signed:

Senators:

HATHAWAY of York
FERGUSON, JR. of Oxford
CAREY of Kennebec

Representatives:

REED of Falmouth
TRIPP of Topsham
TUTTLE, JR. of Sanford
KEANE of Old Town
BARTH, JR. of Bethel
MURPHY of Berwick
GREEN of Monmouth
POIRIER of Saco

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

Signed:

Representative:

DORE of Auburn

Comes from the House with the Majority **UGHT TO
PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill
**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE
AMENDMENT "A" (H-766)**.

Which Reports were **READ**.

The Chair moved that the Senate **ACCEPT** the
Majority **UGHT TO PASS AS AMENDED** Report, in
concurrence.

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

Senator **RAND:** Thank you, Mr. President. Good
morning, Men and Women of the Senate. I think that
before we vote on this it would behoove us all to
look at House Amendment 766, which is the fiscal note
on this bill. It will decrease general fund revenue
by \$378,922 in fiscal years 1996/1997. The
corresponding decrease in dedicated revenue to the
local government fund for state municipal revenue
sharing will be \$20,364. These estimates of the
revenue reductions are based on a partial year of
implementation. The estimated full year revenue
reductions, beginning in fiscal year 1997/1998 are
approximately \$542,144 to the general fund and
\$29,135 to the local government fund. I think that
we should remember that we have a tax cap in place,
that we are in the process of eliminating a number of
taxes that are in place right now, and that this

State has a lot of past bills that have to be paid. I would urge you to vote against the majority report, and I would ask for a Roll Call. Thank you.

Senator **RAND** of Cumberland requested a Roll Call.

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

Senator **CAREY**: Thank you, Mr. President. In response to the good Senator from Cumberland, Senator Rand's, concerns, I would point out that the Taxation Committee was extremely concerned with the loss of the farms that we have suffered over the last ten years. We are down to a third of the farms that we used to have. We are not really interested in depending on milk coming in from Wisconsin or Massachusetts, or what have you, so we are trying to save whatever we can of the farms that are left. Therefore, there is a loss to the local government fund, as the gentlelady mentioned; but, we think that it is well worthwhile to lose that much money to make sure that people still have their livelihood. Thank you.

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

Senator **GOLDTHWAIT**: Thank you, Mr. President, Ladies and Gentlemen of the Senate. As a participant in the Dairy Study Committee, we certainly recognize the serious fiscal impact of this bill. But, I, as a novice to dairy farm issues, reviewed the information, saw the attrition in Maine dairy farms, the loss of jobs and the loss of indirect benefits to the State of Maine. I became convinced that it was important to do what we could to salvage the dairy farm industry. There is some effort under way in that industry now to revise the way dairy farming happens in a way that would actually promote increased employment in that industry; and, of course, farms are located in rural areas, an area where we desperately need employment. The energy issue is one of the few issues that we really felt we could make a significant change on. There are a number of bills that came out of that study; and a few of them will have a significant positive affect on dairy farming in Maine. This is one of the greater ones. As we looked at the statistics that compared different states, the cost of dairy farms, the cost of cows and feed and energy and transportation and inspection, energy was clearly one of the main disadvantages that the State of Maine has as a dairy producer. In a session when we are considering repealing things like a snack tax, at a loss of \$13 million, it seems like this \$378,000 is a relatively small price to pay to sustain Maine farms. This is an exemption, as I understand it, that is given to many other types of industry. To the extent that dairy farming can be considered an industry, which I believe they legitimately can, it makes sense to me to extend this energy exemption to those farms to allow them to work within their very small profit margin. Thank you.

On motion by Senator **LAWRENCE** of York, Tabled until Later in Today's Session, **ACCEPTANCE** of the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act to Lessen the Penalty for Withdrawal of Farms from the Farm and Open Space Tax Law"

H.P. 1295 L.D. 1777

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-767)**.

Signed:

Senators:

HATHAWAY of York
FERGUSON, JR. of Oxford
CAREY of Kennebec

Representatives:

REED of Falmouth
TRIPP of Topsham
TUTTLE, JR. of Sanford
KEANE of Old Town
BARTH, JR. of Bethel
MURPHY of Berwick
GREEN of Monmouth
POIRIER of Saco
DUNN of Gray

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

Signed:

Representative:

DORE of Auburn

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-767)**.

Which Reports were **READ**.

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

Senate

Ought to Pass

Senator **MILLS** for the Committee on **JUDICIARY** on 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

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

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

The Bill **READ ONCE**.

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

Ought to Pass As Amended

Senator **SMALL** for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Repeal and Replace the Charter of Bowdoin College" (Emergency)

S.P. 658 L.D. 1718

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-480)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-480) **READ** and **ADOPTED**.

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

Senator **MICHAUD** for the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Revise Certain Fish and Wildlife Laws" (Emergency)

S.P. 637 L.D. 1645

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-485)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-485) **READ** and **ADOPTED**.

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

Senator MICHAUD for the Committee on INLAND FISHERIES AND WILDLIFE on Bill "An Act to Amend the Laws Concerning Commercial Whitewater Rafting" S.P. 719 L.D. 1820
Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-486).
Which Report was READ and ACCEPTED.
The Bill READ ONCE.
Committee Amendment "A" (S-486) READ and ADOPTED.
The Bill, as Amended, LATER ASSIGNED FOR SECOND READING.

Senator PENDEXTER for the Committee on HUMAN RESOURCES on Bill "An Act to Ensure That Charity Care Guidelines That Apply to Hospitals Also Apply to Their Subsidiaries" S.P. 638 L.D. 1673
Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-482).
Which Report was READ and ACCEPTED.
The Bill READ ONCE.
Committee Amendment "A" (S-482) READ and ADOPTED.
The Bill, as Amended, LATER ASSIGNED FOR SECOND READING.

Senator LORD for the Committee on NATURAL RESOURCES on Bill "An Act to Reinstate the Laws Governing Dam Abandonment" S.P. 249 L.D. 646
Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-484).
Which Report was READ and ACCEPTED.
The Bill READ ONCE.
Committee Amendment "A" (S-484) READ and ADOPTED.
The Bill, as Amended, LATER ASSIGNED FOR SECOND READING.

Senator LORD for the Committee on NATURAL RESOURCES on Bill "An Act Relating to Solid Waste Management" S.P. 720 L.D. 1824
Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-481).
Which Report was READ and ACCEPTED.
The Bill READ ONCE.
Committee Amendment "A" (S-481) READ and ADOPTED.
The Bill, as Amended, LATER ASSIGNED FOR SECOND READING.

Off Record Remarks

Senator LORD for the Committee on NATURAL RESOURCES on Bill "An Act to Amend the Laws Relating to Regulation of Wetlands" S.P. 730 L.D. 1834
Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-483).
Which Report was READ and ACCEPTED.
The Bill READ ONCE.
Committee Amendment "A" (S-483) READ and ADOPTED.

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

Divided Report

The Majority of the Committee on HUMAN RESOURCES on Bill "An Act to Amend the Mass Gathering Laws" S.P. 669 L.D. 1731
Reported that the same Ought Not to Pass.
Signed:
Senators:
PENDEXTER of Cumberland
BENOIT of Franklin
PINGREE of Knox
Representatives:
FITZPATRICK of Durham
JOHNSON of South Portland
ETNIER of Harpswell
MITCHELL of Portland
JONES of Bar Harbor
LOVETT of Scarborough
JOYNER of Hollis
JOY of Crystal
WINGLASS of Auburn
The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-479).
Signed:
Representative:
MARVIN of Cape Elizabeth
Which Reports were READ.
The Majority OUGHT NOT TO PASS Report ACCEPTED.
Sent down for concurrence.

Divided Report

The Majority of the Committee on INLAND FISHERIES AND WILDLIFE on Bill "An Act to Increase the Penalties for Certain Crimes Involving Alcohol and Illegal Drugs" S.P. 323 L.D. 904
Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-477).
Signed:
Senators:
HALL of Piscataquis
KIEFFER of Aroostook
Representatives:
GREENLAW of Standish
JACQUES of Waterville
CLARK of Millinocket
TYLER of Windham
ROSEBUSH of East Millinocket
TUFTS of Stockton Springs
PAUL of Sanford
UNDERWOOD of Oxford
The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "B" (S-478).
Signed:
Representative:
PERKINS of Penobscot
Which Reports were READ.
On motion by Senator HALL of Piscataquis, the Senate ACCEPTED the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-477) Report.
The Bill READ ONCE.
Committee Amendment "A" (S-477) READ and ADOPTED.
The Bill, as Amended, LATER ASSIGNED FOR SECOND READING.

SECOND READERS

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

House

Bill "An Act to Establish the Town Boundary between the Town of Canaan and the Town of Cornville and between the Town of Canaan and the Town of Skowhegan Located in the County of Somerset"

H.P. 1230 L.D. 1683

Bill "An Act to Amend the Definition of "State Agency Client""

H.P. 1281 L.D. 1760

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

House As Amended

Bill "An Act to Increase the Borrowing Capacity of the Ashland Water and Sewer District" (Emergency)

H.P. 1190 L.D. 1631

(C "A" H-761)

Bill "An Act Regarding the Cleanup of Uncontrolled Tire Stockpiles"

H.P. 1208 L.D. 1658

(C "A" H-768)

Bill "An Act to Exempt Working Rural Mail Carriers from the Seat Belt Law"

H.P. 1265 L.D. 1740

(H "A" H-758 to C

"A" H-747)

Bill "An Act to Ensure the Proper and Humane Care of Persons Requiring Mental Health Services" (Emergency)

H.P. 1284 L.D. 1764

(C "A" H-769)

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

Senate As Amended

Bill "An Act to Establish the Penobscot County Budget Committee"

S.P. 613 L.D. 1617

(C "A" S-476)

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

Sent down for concurrence.

Senate at Ease

Senate called to order by the President Pro Tem.

Off Record Remarks

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

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

On motion by THE CHAIR, RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

Off Record Remarks

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

COMMITTEE REPORT

Senate

Ought to Pass As Amended

Senator CARPENTER for the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act Concerning the Number of Washington County Commissioners"

S.P. 703 L.D. 1792

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-487).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-487) READ and ADOPTED.

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

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Amend the Petroleum Market Share Act"

H.P. 1355 L.D. 1860

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

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

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

Bill "An Act to Make All Cases of Vehicular Manslaughter Class A Crimes"

H.P. 1356 L.D. 1861

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.

Bill "An Act to Prohibit the Photographing or Videotaping of Jury Deliberations" (Emergency)

H.P. 1360 L.D. 1868

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.

Bill "An Act to Ensure That Employees Are Compensated for Accrued Vacation Time in the Event of the Sale of a Business"

H.P. 1357 L.D. 1862

Reference to the Committee on LABOR suggested and ORDERED PRINTED.

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

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

Bill "An Act to Increase the Debt Limit of the Madawaska Water District"

H.P. 1361 L.D. 1869

Reference to the Committee on **UTILITIES AND ENERGY** suggested and **ORDERED PRINTED**.

Comes from the House, referred to the Committee on **UTILITIES AND ENERGY** and **ORDERED PRINTED**.

Which was referred to the Committee on **UTILITIES AND ENERGY**, in concurrence.

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

SECOND READERS

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

Senate

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

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

Sent down for concurrence.

Senate As Amended

Bill "An Act to Reinstate the Laws Governing Dam Abandonment"

S.P. 249 L.D. 646

(C "A" S-484)

Bill "An Act to Increase the Penalties for Certain Crimes Involving Alcohol and Illegal Drugs"

S.P. 323 L.D. 904

(C "A" S-477)

Bill "An Act to Revise Certain Fish and Wildlife Laws" (Emergency)

S.P. 637 L.D. 1645

(C "A" S-485)

Bill "An Act to Ensure That Charity Care Guidelines That Apply to Hospitals Also Apply to Their Subsidiaries"

S.P. 638 L.D. 1673

(C "A" S-482)

Bill "An Act to Repeal and Replace the Charter of Bowdoin College" (Emergency)

S.P. 658 L.D. 1718

(C "A" S-480)

Bill "An Act to Amend the Laws Concerning Commercial Whitewater Rafting"

S.P. 719 L.D. 1820

(C "A" S-486)

Bill "An Act Relating to Solid Waste Management"

S.P. 720 L.D. 1824

(C "A" S-481)

Bill "An Act to Amend the Laws Relating to Regulation of Wetlands"

S.P. 730 L.D. 1834

(C "A" S-483)

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

Sent down for concurrence.

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

COMMITTEE REPORT

House

Refer to Committee

The Committee on **TRANSPORTATION** on Bill "An Act to Facilitate the Implementation of a Logo Sign Program on the Interstate"

H.P. 1359 L.D. 1864

Reported, pursuant to Joint Order H.P. 1340, that the same be **REFERRED** to the Committee on **TRANSPORTATION**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **TRANSPORTATION**.

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

The Bill **REFERRED** to the Committee on **TRANSPORTATION**, in concurrence.

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

COMMUNICATION - from the Committee on **NATURAL RESOURCES** on the nomination of Alice H. Rand of Cape Elizabeth for reappointment to the Land for Maine's Future Board.

S.C. 524

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

Pending - **FILING**.

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

Which was **ORDERED PLACED ON FILE**.

THE PRESIDENT: The Joint Standing Committee on **NATURAL RESOURCES** has recommended the nomination of Alice H. Rand, of Cape Elizabeth, be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on **NATURAL RESOURCES** 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:	Senators:	None
NAYS:	Senators:	ABROMSON, AMERO, BEGLEY, BENOIT, BERUBE, BUSTIN, CAREY, CARPENTER, CASSIDY, CLEVELAND, ESTY, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, HATHAWAY, KIEFFER, LAWRENCE, LONGLEY, LORD, MICHAUD, MILLS, O'DEA, PARADIS, PENDEXTER, PINGREE, RAND, RUHLIN, SMALL, STEVENS, and the PRESIDENT
	ABSENT	Senators: CIANCHETTE, FAIRCLOTH, HANLEY, McCORMICK

No Senators having voted in the affirmative and 31 Senators having voted in the negative, with 4 Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of Alice H. Rand, for reappointment to the Land for Maine's Future Board, was **CONFIRMED**.

The Secretary informed the Speaker of the House.

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

HOUSE REPORTS – from the Committee on TAXATION on Bill "An Act to Exempt Farms from the Sales Tax on Electricity"

H.P. 1293 L.D. 1775

Majority – Ought to Pass as Amended by Committee Amendment "A" (H-766) (11 members)

Minority – Ought Not to Pass (1 member)

Tabled – earlier in Today's Session by Senator LAWRENCE of York.

Pending – ACCEPTANCE of the Majority OUGHT TO PASS AS AMENDED Report, in concurrence (Roll Call Requested.)

(In House, March 14, 1996, Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-766).)

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

Senator RAND of Cumberland requested and received Leave of the Senate to withdraw her request for a Roll Call.

The Majority OUGHT TO PASS AS AMENDED Report ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-766) READ and ADOPTED, in concurrence.

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

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

HOUSE REPORTS – from the Committee on TAXATION on Bill "An Act to Lessen the Penalty for Withdrawal of Farms from the Farm and Open Space Tax Law"

H.P. 1295 L.D. 1777

Majority – Ought to Pass as Amended by Committee Amendment "A" (H-767) (12 members)

Minority – Ought Not to Pass (1 member)

Tabled – earlier in Today's session by Senator LAWRENCE of York.

Pending – ACCEPTANCE of Either Report.

(In House, March 14, 1996, the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-767).)

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

The Majority OUGHT TO PASS AS AMENDED Report ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-767) READ and ADOPTED, in concurrence.

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

Senate at Ease

Senate called to order by the President.

ORDERS OF THE DAY

Unfinished Business

The following matters in the consideration of which the Senate was engaged at the time of Adjournment have preference in the Orders of the Day and continue with such preference until disposed of as provided by Senate Rule 29.

The Chair laid before the Senate the first Tabled and Specially Assigned (Wednesday, March 13, 1996) matter:

HOUSE REPORTS from the Committee on TAXATION on Bill "An Act to Ensure Proper Withholding of State Income Tax"

H.P. 1249 L.D. 1711

Majority – Ought to Pass as Amended by Committee Amendment "A" (H-735) (12 members)

Minority – Ought Not to Pass (1 member)

Tabled – March 12, 1996 by Senator KIEFFER of Aroostook.

Pending – ACCEPTANCE OF EITHER REPORT

(In House, March 7, 1996, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-735).)

(In Senate, March 11, 1996, Reports READ.)

On motion by Senator KIEFFER of Aroostook, TABLED UNASSIGNED, pending ACCEPTANCE of Either Report.

The Chair laid before the Senate the second Tabled and Specially Assigned (Thursday, March 14, 1996) matter:

HOUSE REPORT from the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Improve and Expand the Functions of the Department of Audit"

H.P. 1292 L.D. 1774

Report – Ought to Pass as Amended by Committee Amendment "A" (H-745)

Tabled – March 13, 1996 by Senator KIEFFER of Aroostook.

Pending – ACCEPTANCE OF THE REPORT

(In House, March 12, 1996, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-745).)

(In Senate, March 13, 1996, Report READ.)

Which Report was ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-745) READ and ADOPTED, in concurrence.

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

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

SENATE REPORTS from the Committee on BANKING AND INSURANCE on Bill "An Act to Allow the Diagnosis of Biologically-based Mental Illness by Licensed Psychologists" (Emergency)

S.P. 622 L.D. 1630

Majority – Ought to Pass as Amended by Committee Amendment "A" (S-472) (7 members)

Minority – Ought to Pass as Amended by Committee Amendment "B" (S-473) (6 members)

Tabled – March 14, 1996, by Senator KIEFFER of Aroostook.

Pending – ACCEPTANCE OF EITHER REPORT.

(In Senate, March 14, 1996, Reports READ.)

Senator ABROMSON of Cumberland moved that the Senate ACCEPT the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-472) Report.

Senator BUSTIN of Kennebec requested that the Committee Report be read.

The Secretary read the Committee Report.

Senator BUSTIN of Kennebec moved to Table until Later in Today's Session, pending the motion by Senator ABROMSON of Cumberland that the Senate ACCEPT the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-472) Report.

On motion by Senator **ABROMSON** of Cumberland, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **BUSTIN** of Kennebec to **TABLE UNTIL LATER IN TODAY'S SESSION**, pending the motion by Senator **ABROMSON** of Cumberland that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-472)** Report.

A vote of Yes will be in favor of **TABLING UNTIL LATER IN TODAY'S SESSION**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

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

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

ABSENT: Senators: **CIANCHETTE, HANLEY**
Senator **LONGLEY** of Waldo requested and received Leave of the Senate to change her vote from **NAY** to **YEA**.

16 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 2 Senators being absent, the motion of Senator **BUSTIN** of Kennebec to **TABLE UNTIL LATER IN TODAY'S SESSION**, pending the motion by Senator **ABROMSON** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-472)** Report, **FAILED**.

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

Senator **McCORMICK:** Thank you, Mr. President, Men and Women of the Senate. I urge you to vote against the pending motion. I ask for the Yeas and Nays. Excuse me for being a little out of breath. Basically, let me give you a little bit of history about this bill. This is the fix to our legislative oversight that we did when we passed the mental health parity bill. You all remember that. It was L.D. 595 of last session. It is the bill that allowed people with biologically-based illnesses, of which there are only seven illnesses, to have the same health insurance benefits as people with physically based illnesses, meaning \$1 million lifetime benefit. In passing this bill, and for those of you who have been here for a long time you will recall this has been a ten-year effort to get parity for people with biologically-based mental illnesses. In passing this bill, we inadvertently attached an amendment that meddled in the marketplace. It said, basically, that the only people who could diagnose biologically-based mental illnesses were doctors and psychiatrists. In fact, that became the law of the land. The problem with that, certainly it is not a problem with having those folks diagnose biologically-based mental illnesses, the problem is that we were meddling in the marketplace with that piece of legislation; because several other people, groups or professions, including clinical nurse specialists, do diagnose and treat biologically-based mental illnesses in their

scope of practice. So do psychologists diagnose and treat biologically-based mental illnesses. So, the Senator from Cumberland, Senator **Abromson**, put forth L.D. 1630 this year to try to fix that. His bill only mentioned psychologists; because, I think, it was just unclear to us that clinical nurse specialists also were diagnosing and treating biologically-based mental illnesses. Now, to further muddy the waters and meddle, and I have the utmost respect for the good Senator from Cumberland, Senator **Abromson**; but, I do think that his amendment continues legislative meddling in the marketplace in this important area; and that report B does not. That is why I am standing on my feet, asking you to support Report B. Report A, that the good Senator from Cumberland is on and that is before us, would further exacerbate the problem by saying only certain folks, he has added psychologists, so only psychologists, doctors and psychiatrists can diagnose and treat. He is adding that, the piece that is before us now adds treat, in other words do treatment of, not just the diagnosis of the seven biologically-based mental illnesses, but work with doctors and a team and treat them. That really meddles in the marketplace, because clinical nurse specialists are currently treating people with biologically-based mental illnesses, have been for years, have been for tens of years; and their scope of practice allows them to do so. So, I urge you to vote no on this report so that we can get to Report B, which, in very unmeddlesome language, basically says however the marketplace has been dealing with this, however scopes of practice have been dealing with this, before we pass the mental health parity bill, which we did last year, that is the way that we should continue to deal. That is what Report B does, and I would love to move it after we defeat Report A. Thank you.

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

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

Senator **ABROMSON:** Thank you, Mr. President. In passing L.D. 595 in the last session, it was the intent, I believe, of those of us on the Committee to pass legislation that required equity and coverage limits for mental illness under individual and group policies. That's what we thought we had done. We then found out that we had left out psychologists in the diagnosis of these diseases. That was why, as the good Senator from Kennebec, Senator **McCormick**, said, I put in L.D. 1630. However, it was then brought to our attention that when we passed L.D. 595, we inadvertently not only equalized the limits; but we then added to providers entitled to reimbursement, licensed clinical social workers, certified psychiatric nurses; and when we passed L.D. 68, and called it a mandatory offer, those who then chose to take that offer would also include, for reimbursement, professional counselors, marriage and family therapists, and pastoral counselors. So, in the Committee, in discussing this, we thought that it would be best to go back to pre-L.D. 595, with respect to reimbursement, and allow in for reimbursement psychologists only. That was for diagnosis and reimbursement at the upper level. These other providers would continue to receive reimbursement; but they will receive it at the level that they were receiving it at prior to the passage

of L.D. 595, which, by the way, has not yet gone into effect, so they will not lose anything in their reimbursement arrangements and will be paid according to their contracts in the insurance policy. So, I would urge passage of L.D. 1630 as amended by the majority Committee Amendment "A".

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

Senator GOLDTHWAIT: Thank you, Mr. President, Ladies and Gentlemen of the Senate. There are 15,931 active nursing licenses in the State of Maine. I think pretty much all of them have checked in with me over the weekend on this bill. My concern is, if I understand this correctly, and I will be the first one to confess that I might not, it does create a preferential difference in reimbursement with a category of provider who had previously been reimbursed at the same level as other practitioners, so that the majority report, which is before us now, makes a differentiation which is going to cause consumers to be more likely to select one type of provider over another, which was not the case before. That is my objection to the majority report. The issue is that many people have been using certain categories of providers for this type of care, and that was a relatively open selection; but now that there is a preference in terms of percentage of reimbursement, it is likely, certainly, that the consumer, as I would, would select the highest reimbursed category, which will have a significant impact on health care providers who have been practicing prior to this point. There are certainly a number of those people and the consumers who have been relying on them for many years in the State of Maine. This does not expand anybody's scope of practice. It does not require that anybody does, or doesn't, reimburse for those services, except as already exists in the law. It simply creates a preferential structure which would, undoubtedly, have a negative impact on certain providers. I urge you to defeat the report in front of us. Thank you.

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

Senator McCORMICK: Thank you, Mr. President, Men and Women of the Senate. I wanted to clarify some things that the Senator from Cumberland, Senator Abromson, said. When we passed L.D. 595, we did not make a mandate in terms of providers who could do this. We limited people's scopes of practice. I think that by his remarks, we got the impression that L.D. 595 actually certified, or blessed, a spectrum of professionals to diagnose and treat biologically-based mental illness. That is not true. It, in fact, limited to two, doctors and psychiatrists, D.O.'s and allopathic. That is not the way the marketplace works. That is not the way the scopes of practice work. We were meddling at that point. L.D. 68, which the good Senator referred to, is a totally separate issue. As a matter of fact, it is now a shadow of its former self. It is a mandate to offer, which is the mildest of mild suggestion that there be some kind of parity in the marketplace, but it, once again, is not a mandate. It does not mandate coverage of providers and it only allows insurance companies, and there are insurance companies who see that allowing more cost-effective professionals to treat mental illnesses, to be reimbursed, is a cost savings measure. Once again, I reiterate, L.D. 68 has nothing to do with this. L.D. 595 did not expand any professional's ability to do

anything that they weren't able to do before. In fact, L.D. 595 limited the scopes of psychologists who were diagnosing and clinical nurse specialists who were diagnosing. Report A fixes it for one, Report B fixes it for both. So, please vote no on Report A so we can vote yes on Report B. Thank you.

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

Senator RAND: Thank you, Mr. President. May I pose a question through the Chair? Does the proposal before us limit anyone's scope of practice before a provider, a professional, was able to do a certain thing? Does this proposal before us now limit anybody's ability to do what they had previously done in the past, or are we simply talking about reimbursement?

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

Senator ABROMSON: The proposed bill does not eliminate anybody's scope of practice. It does limit their reimbursement level.

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

Senator McCORMICK: Thank you, Mr. President. In addition to limiting the reimbursement, it also limits clinical nurse specialists from being able to diagnose and treat biologically-based mental illness. It also, I agree, limits their reimbursement; but if you are under the impression that this report only limits the professionals called clinical nurse specialists' reimbursement, you are mistaken. It also limits their ability that their scope of practice gives them to diagnose and treat biologically-based mental illness.

THE PRESIDENT: The pending question before the Senate is the motion by Senator ABROMSON of Cumberland that the Senate ACCEPT the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-472) Report.

A vote of Yes will be in favor of ACCEPTANCE.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: ABROMSON, AMERO, BEGLEY, BENOIT, BERUBE, CAREY, CARPENTER, CASSIDY, FERGUSON, HALL, HARRIMAN, HATHAWAY, KIEFFER, LORD, MILLS, PENDEXTER, SMALL, STEVENS, and the PRESIDENT

NAYS: Senators: BUSTIN, CLEVELAND, ESTY, FAIRCLOTH, GOLDTHWAIT, LAWRENCE, LONGLEY, McCORMICK, MICHAUD, O'DEA, PARADIS, PINGREE, RAND, RUHLIN

ABSENT: Senators: CIANCHETTE, HANLEY

19 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator ABROMSON of Cumberland to ACCEPT the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-472) Report, PREVAILED.

The Bill READ ONCE.

Committee Amendment "A" (S-472) READ and ADOPTED.

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

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

Bill "An Act to Ensure That Basic Health Care Needs of Women Are Covered in Insurance Policies"
H.P. 976 L.D. 1385
(S "A" S-469 to C "A" H-707)

Tabled - March 14, 1996, by Senator **BUSTIN** of Kennebec.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**, in **NON-CONCURRENCE** (Division Requested).

(In House, March 7, 1996, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-707)**.)

(In Senate, March 14, 1996, **READ A SECOND TIME**.)

Senator **BUSTIN** of Kennebec withdrew her request for a Division.

Which was **PASSED TO BE ENGROSSED, As Amended**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

SENATE REPORTS from the Committee on **UTILITIES AND ENERGY** on Bill "An Act Relating to Pole Attachment Rate Disputes"

S.P. 612 L.D. 1616

Report A - **Ought Not to Pass** (8 members)

Report B - **Ought to Pass as Amended by Committee Amendment "A" (S-474)** (4 members)

Report C - **Ought to Pass as Amended by Committee Amendment "B" (S-475)** (1 member)

Tabled - March 14, 1996, by Senator **KIEFFER** of Aroostook.

Pending - **ACCEPTANCE OF ANY REPORT**.

(In Senate, March 14, 1996, Reports **READ**.)

On motion by Senator **HARRIMAN** of Cumberland, Report "A" - **OUGHT NOT TO PASS ACCEPTED**.

Sent down for concurrence.

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

On motion by Senator **CLEVELAND** of Androscoggin, **ADJOURNED** until Wednesday, March 20, 1996, at 9:00 o'clock in the morning.