

# MAINE STATE LEGISLATURE

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**Senate Legislative Record**  
**One Hundred and Eighteenth Legislature**  
**State of Maine**

**Volume 1**

**First Regular & Special Session**  
**December 6, 1996 to May 19, 1997**

**Pages 1 - 980**

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

In Senate Chamber  
Tuesday  
February 25, 1997

Senate Called to Order by the President, Mark W. Lawrence of York.

Prayer by Reverend Henry Wyman of the High Street Congregational Church of Newport.

**REVEREND HENRY WYMAN:** Let us pray together. O God, Our Father, as we deliberate the present and the future of our beautiful State of Maine, we need to be concerned for maintaining its' beauty, while pursuing future possibilities for business. We need to have a real, deep sense of our responsibility to Thee and to each other, which is no easy task. There are always voices calling for our attention that their concerns ought to be Your concerns. But, You are called by the people of this State to protect and advance the resources and the possibilities. We are grateful, Our Father, for the beauty You have given to all of us to enjoy in this great State. We are proud of its' heritage and equally, hopeful of its' future. Give us strength and courage and above all, vision with compassion. Amen.

Doctor of the Day, David Tolstrup, D.O., Bangor.

Pledge of Allegiance led by Senator Beverly Daggett of Kennebec.

Reading of the Journal of Thursday, February 20, 1997.

Out of order and under suspension of the Rules, on motion by Senator **PINGREE** of Knox, the following Senate Order:  
S.O. 14

**ORDERED**, that a message be sent to the House of Representatives proposing a Joint Convention of both Branches to be held in the Hall of the House at 11:00 in the morning for the purpose of extending to the Honorable Terrence MacTaggart, Chancellor of the University of Maine System, and the Honorable John Fitzsimmons, President of the Maine Technical College System, an invitation to attend the Convention and make such communication as pleases them.

Which was **READ** and **PASSED**.

The Chair appointed the Senator from Knox, Senator **PINGREE** to deliver the message to the House.

Subsequently, the Senator from Knox, Senator **PINGREE**, reported that she had delivered the message with which she was charged.

Off Record Remarks

**PAPERS FROM THE HOUSE**

**Non-concurrent Matter**

Bill "An Act to Ban Partial Birth Abortions"  
H.P. 390 L.D. 535

In House, January 28, 1997, **REFERRED** to the Committee on **JUDICIARY** and **ORDERED PRINTED**.

In Senate, February 18, 1997, **RULED NOT PROPERLY BEFORE THE BODY**, pursuant to Joint Rule 206.1, in **NON-CONCURRENCE**.

Comes from the House, that Body having removed four co-sponsors and referred to the Committee on **JUDICIARY** in **NON-CONCURRENCE**.

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

**COMMUNICATIONS**

The Following Communication: S.C. 36

**118th MAINE LEGISLATURE**

January 10, 1997

Terrence MacTaggart, Chancellor  
University of Maine System  
107 Maine Avenue  
Bangor, Maine 04401

Dear Chancellor MacTaggart:

We are pleased to invite you to address a Joint Session of the 118th Maine Legislature on Tuesday, February 25, 1997 at 11:00 a.m. concerning the State of the University and any other matters that you may care to bring to our attention.

On the same day, following your address, John Fitzsimmons, President, Maine Technical College System will be addressing the Joint Session.

We look forward to seeing you then. Best wishes.

Sincerely,

S/Mark W. Lawrence                      S/Elizabeth H. Mitchell  
President of the Senate                      Speaker of the House

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

The Following Communication: S.C. 37

**UNIVERSITY OF MAINE SYSTEM  
107 MAINE AVENUE  
BANGOR, MAINE 04401-4380**

February 3, 1997

The Honorable Mark W. Lawrence  
President of the Senate  
The Honorable Elizabeth H. Mitchell  
Speaker of the House  
State of Maine  
118th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

It is with particular pleasure that I accept your invitation to address a Joint Session of the 118th Maine Legislature on Tuesday, February 25, 1997 at 11:00 a.m.

I consider this a distinct privilege, and I look forward to reporting on the state of the University of Maine System.

Sincerely,

S/Terrence J. MacTaggart  
Chancellor

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

The Following Communication: S.C. 38

**118th MAINE LEGISLATURE**

January 10, 1997

John Fitzsimmons, President  
Maine Technical College System  
131 State House Station  
Augusta, Maine 04333

Dear President Fitzsimmons:

We are pleased to invite you to address a Joint Session of the 118th Maine Legislature on Tuesday, February 25, 1997 concerning the State of the Maine Technical College System and any other matters that you may care to bring to our attention. We will begin the Joint Session at 11:00 a.m. with an address from Chancellor MacTaggart. You will address the Legislature directly following the Chancellor.

We look forward to seeing you then. Best wishes.

Sincerely,

S/Mark W. Lawrence  
President of the Senate

S/Elizabeth H. Mitchell  
Speaker of the House

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

The Following Communication: S.C. 39

**MAINE TECHNICAL COLLEGE SYSTEM  
OFFICE OF THE PRESIDENT  
323 STATE STREET  
AUGUSTA, MAINE 04330-7131**

February 20, 1997

The Honorable Mark W. Lawrence  
President of the Senate  
118th Maine Legislature  
Augusta, ME 04333

The Honorable Elizabeth H. Mitchell  
Speaker of the House  
118th Maine Legislature  
Augusta, ME 04333

Dear President Lawrence and Speaker Mitchell:

It is with great pleasure that I accept your invitation to address a Joint Session of the 118th Maine Legislature on Tuesday, February 25, 1997. I deeply appreciate the invitation and am looking forward to the opportunity to talk about the wonderful work that goes on every day across our System.

Sincerely yours,

S/John Fitzsimmons  
President

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

The Following Communication: S.C. 40

**THE SENATE OF MAINE  
OFFICE OF THE PRESIDENT  
3 STATE HOUSE STATION  
AUGUSTA, MAINE 04333**

February 18, 1997

The Honorable Joy J. O'Brien  
3 State House Station  
Augusta, Maine 04333

Dear Secretary O'Brien,

Please be advised that pursuant to Senate Rule 201, sec. 1, sub. C, I have appointed the Honorable Rochelle Pingree, D-Knox, to serve as the President Pro-Tempore in the event of my absence during the First Regular Session of the 118th Maine Legislature.

Sincerely,

S/Mark W. Lawrence  
President of the Senate

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

The Following Communication: S.C. 41

**STATE OF MAINE  
ONE HUNDRED AND EIGHTEENTH LEGISLATURE  
COMMITTEE ON BUSINESS AND ECONOMIC  
DEVELOPMENT**

February 19, 1997

Honorable Mark W. Lawrence, President of the Senate  
Honorable Elizabeth H. Mitchell, Speaker of the House  
118th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Business and Economic Development has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 573 An Act to Conform the Maine Fair Debt Collection Practices Act to Federal Law

L.D. 994 An Act to Conform the Maine Fair Debt Collection Practices Act to Federal Laws

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. John T. Jenkins  
Senate Chair

S/Rep. Marc J. Vigue  
House Chair

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

The Following Communication: S.C. 42

**STATE OF MAINE  
ONE HUNDRED AND EIGHTEENTH LEGISLATURE  
COMMITTEE ON CRIMINAL JUSTICE**

February 19, 1997

Honorable Mark W. Lawrence, President of the Senate  
Honorable Elizabeth H. Mitchell, Speaker of the House  
118th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Criminal Justice has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 69 An Act to Prohibit a Juvenile from Pleading to a Reduced Juvenile Crime

L.D. 294 An Act to Increase the Authorized Period of Probation for a Class D Crime

L.D. 295 An Act to Facilitate Payment of Restitution for Thefts by Extending the Period of Probation

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Robert E. Murray, Jr.  
Senate Chair

S/Rep. Edward J. Povich  
House Chair

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

The Following Communication: S.C. 43

**STATE OF MAINE  
ONE HUNDRED AND EIGHTEENTH LEGISLATURE  
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

February 19, 1997

Honorable Mark W. Lawrence, President of the Senate  
Honorable Elizabeth H. Mitchell, Speaker of the House  
118th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Education and Cultural Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 37 An Act to Permit Schools to Allow Credit toward a High School Diploma for Paid Driver Education Courses

L.D. 236 An Act to Strengthen the Requirements for Acquisition of Driver's Licenses by Minors

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Peggy A. Pendleton  
Senate Chair

S/Rep. Shirley K. Richard  
House Chair

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

The Following Communication: S.C. 44

**STATE OF MAINE  
ONE HUNDRED AND EIGHTEENTH LEGISLATURE  
COMMITTEE ON HEALTH AND HUMAN SERVICES**

February 19, 1997

Honorable Mark W. Lawrence, President of the Senate  
Honorable Elizabeth H. Mitchell, Speaker of the House  
118th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Health and Human Services has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 129 An Act to Require That All Medicaid Funds Be Controlled by a Single State Agency

L.D. 303 An Act to Prohibit Nursing Facilities from Disposing of Medications of Patients Temporarily Absent from the Facilities

L.D. 388 An Act to Ensure State Payment to Nursing Homes of Costs Associated with State Adult Protection Custody Orders

L.D. 422 An Act to Improve the Delivery of Substance Abuse Services in Maine

L.D. 733 An Act to Require Medicaid to Pay for Intravenous Drug Therapy at Home

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Judy Paradis  
Senate Chair

S/Rep. J. Elizabeth Mitchell  
House Chair

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

The Following Communication: S.C. 45

**STATE OF MAINE  
ONE HUNDRED AND EIGHTEENTH LEGISLATURE  
COMMITTEE ON JUDICIARY**

February 19, 1997

Honorable Mark W. Lawrence, President of the Senate  
Honorable Elizabeth H. Mitchell, Speaker of the House  
118th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Judiciary has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 105 Resolve, to Create a Task Force to Study the Adequacy of the Laws Regarding Involuntary Commitment

L.D. 444 An Act to Establish the Maximum and Minimum Number of Grand Jurors to Be Summoned and Impaneled

L.D. 453 An Act to Give District Attorneys the Option of Appearing in Civil Proceedings

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Susan W. Longley  
Senate Chair

S/Rep. Richard H. Thompson  
House Chair

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

The Following Communication: S.C. 46

**STATE OF MAINE  
ONE HUNDRED AND EIGHTEENTH LEGISLATURE  
COMMITTEE ON LABOR**

February 19, 1997

Honorable Mark W. Lawrence, President of the Senate  
Honorable Elizabeth H. Mitchell, Speaker of the House  
118th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Labor has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 96 An Act to Exempt Seasonal Golf Course Employees from the Unemployment Compensation Laws

L.D. 163 An Act to Shift from Small Business Owners to the Department of Labor the Responsibility for Providing the Department of Human Services with Information on New Employees

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Mary R. Cathcart  
Senate Chair

S/Rep. Pamela H. Hatch  
House Chair

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

The Following Communication: S.C. 47

**STATE OF MAINE  
ONE HUNDRED AND EIGHTEENTH LEGISLATURE  
COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

February 19, 1997

Honorable Mark W. Lawrence, President of the Senate  
Honorable Elizabeth H. Mitchell, Speaker of the House  
118th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Legal and Veterans Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 501 An Act to Prohibit Political Action Committee and Corporate Contributions in State Elections

L.D. 557 An Act to Amend Certain Election Laws Regarding Voter Registration

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Beverly C. Daggett  
Senate Chair

S/Rep. John L. Tuttle, Jr.  
House Chair

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

The Following Communication: S.C. 48

**STATE OF MAINE  
ONE HUNDRED AND EIGHTEENTH LEGISLATURE  
COMMITTEE ON MARINE RESOURCES**

February 19, 1997

Honorable Mark W. Lawrence, President of the Senate  
Honorable Elizabeth H. Mitchell, Speaker of the House  
118th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Marine Resources has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 311 An Act to Establish the Status of New Fisheries

L.D. 403 An Act to Offer a Free Subsistence Fishing License to Persons 70 Years of Age or Older

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Jill M. Goldthwait  
Senate Chair

S/Rep. David Etnier  
House Chair

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

The Following Communication: S.C. 49

**STATE OF MAINE  
ONE HUNDRED AND EIGHTEENTH LEGISLATURE  
COMMITTEE ON STATE AND LOCAL GOVERNMENT**

February 19, 1997

Honorable Mark W. Lawrence, President of the Senate  
Honorable Elizabeth H. Mitchell, Speaker of the House  
118th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on State and Local Government has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 99 An Act Concerning the Format of Legislative Documents

L.D. 282 An Act to Require Public Forms to Contain a Revision Date

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. John M. Nutting  
Senate Chair

S/Rep. Douglas J. Ahearne  
House Chair

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

The Following Communication: S.C. 50

**STATE OF MAINE  
ONE HUNDRED AND EIGHTEENTH LEGISLATURE  
COMMITTEE ON TAXATION**

February 19, 1997

Honorable Mark W. Lawrence, President of the Senate  
Honorable Elizabeth H. Mitchell, Speaker of the House  
118th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Taxation has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 141 An Act Regarding the Authority of County Government Assessments

L.D. 193 An Act to Exempt Lobster Traps from the Personal Property Tax

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Richard P. Ruhlin  
Senate Chair

S/Rep. Verdi L. Tripp  
House Chair

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

The Following Communication: S.C. 51

**STATE OF MAINE  
ONE HUNDRED AND EIGHTEENTH LEGISLATURE  
COMMITTEE ON TRANSPORTATION**

February 19, 1997

Honorable Mark W. Lawrence, President of the Senate  
Honorable Elizabeth H. Mitchell, Speaker of the House  
118th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Transportation has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 3 An Act to Amend the Laws Regarding the Registration of Pickup Trucks

L.D. 78 An Act to Increase the Fee for Car Inspections

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. William B. O'Gara  
Senate Chair

S/Rep. Joseph D. Driscoll  
House Chair

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

The Following Communication: S.C. 52

**STATE OF MAINE  
ONE HUNDRED AND EIGHTEENTH LEGISLATURE  
COMMITTEE ON UTILITIES AND ENERGY**

February 19, 1997

Honorable Mark W. Lawrence, President of the Senate  
Honorable Elizabeth H. Mitchell, Speaker of the House  
118th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Utilities and Energy has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 382 An Act to Prohibit the Public Utilities Commission from Directing Utility Overcharges to Any Program Other Than Repayment to Ratepayers

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Richard J. Carey  
Senate Chair

S/Rep. Kyle W. Jones  
House Chair

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

The Following Communication: S.C. 53

**STATE OF MAINE  
DEPARTMENT OF  
ECONOMIC AND COMMUNITY DEVELOPMENT  
33 STONE STREET  
59 STATE HOUSE STATION  
AUGUSTA, MAINE 04333**

February 21, 1997

The Honorable Mark W. Lawrence, President of the Senate  
Maine Senate  
3 State House Station  
Augusta, Maine 04333

Dear President Lawrence:



Enclosed is a copy of the Department of Economic and Community Development's 1995-96 biennial report, prepared in accordance with 5 MRSA § 13058. This report provides a comprehensive overview of the department's activities and accomplishments over the past two years, and looks at what we expect for 1997 and 1998. I hope that you and your staff find it useful as you consider the economic development policy matters of the 118th Legislature.

Please let me know if you have any questions or comments, or if you would like additional copies of the report.

Sincerely,

S/Thomas D. McBrierty  
Commissioner

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

The Following Communication: S.C. 54

**DEPARTMENT OF LABOR**

February 3, 1997

The Honorable Angus King  
Governor  
1 State House Station  
Augusta, Maine 04333-0001

The Honorable Elizabeth Mitchell  
Speaker of the House  
2 State House Station  
Augusta, Maine 04333-0002

The Honorable Mark Lawrence  
President of the Senate  
3 State House Station  
Augusta, Maine 04333-0003

Dear Governor King, Representative Mitchell and Senator Lawrence:

We are pleased to submit to the Governor and the 118th Legislature, the Annual Report on the Status of the Maine Workers' Compensation System as required by Title 39-A, Section 358(2). These three individual reports are from the agencies most involved with the Workers' Compensation system. They summarize results of data collection and profile the current status of the Workers' Compensation system, including costs, administration, adequacy and timeliness of benefits and evaluation of the entire system, including a summary of occupational safety and health in Maine.

Sincerely, Sincerely, Sincerely,

S/Brian K. Atchinson Superintendent Bureau of Insurance Dept. of Professional & Financial Regulation	S/Paul Dionne Executive Director Workers' Compensation Board	S/Alan C. Hinsey Director Bureau of Labor Standards Department of Labor
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Which was **READ** and with Accompanying Papers  
**ORDERED PLACED ON FILE.**

Off Record Remarks

At this point, a message was received from the House of Representatives, borne by Representative KONTOS of Windham informing the Senate that the House concurred in the proposition for a Joint Convention, to be held in the Hall of the House, at 11:00 a.m., for the purpose of extending to the Honorable Terrence MacTaggart, Chancellor of the University of Maine System, and the Honorable John Fitzsimmons, President of the Maine Technical College System, an invitation to attend the Joint Convention and make such communication as pleases them.

**SENATE PAPERS**

Bill "An Act to Enhance Live Animal and Embryo Exports From Maine" S.P. 355 L.D. 1174

Presented by Senator NUTTING of Androscoggin  
Cosponsored by Representative BUNKER, JR. of Kossuth Township and Senator: KILKELLY of Lincoln,  
Representative: SPEAR of Nobleboro

Bill "An Act to Remove the Large Lot Exemption from the Definition of "Subdivision" within the Laws Administered by the Maine Land Use Regulation Commission" S.P. 356 L.D. 1175

Presented by Senator KILKELLY of Lincoln  
Cosponsored by Representative GOOLEY of Farmington and Representatives: BERRY of Livermore, BROOKS of Winterport, BULL of Freeport, DESMOND of Mapleton, FOSTER of Gray, PEAVEY of Woolwich, SAMSON of Jay, WHEELER of Eliot  
Submitted by the Department of Conservation pursuant to Joint Rule 204.

Bill "An Act to Provide Relief from Barking Dogs" S.P. 373 L.D. 1232

Presented by Senator SMALL of Sagadahoc

Resolve, to Convene a Study Group to Identify Access to Public Landings and Their Facilities by Persons Engaged in Commercial Fishing S.P. 376 L.D. 1235

Presented by President LAWRENCE of York  
Cosponsored by Representative: WHEELER of Eliot

(See action later today.)

Which were referred to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and **ORDERED PRINTED**.

Sent down for concurrence.

---

Bill "An Act to Reduce the Cost of State Government"  
S.P. 375 L.D. 1234

Presented by Senator NUTTING of Androscoggin  
Cosponsored by Representative KERR of Old Orchard Beach and Senators: BENNETT of Oxford, MICHAUD of Penobscot, Representative: BERRY of Livermore

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$5,000,000 for the Acquisition of Water Access Sites by the Department of Inland Fisheries and Wildlife"  
S.P. 380 L.D. 1239

Presented by Senator MICHAUD of Penobscot

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$5,000,000 to Assist Municipalities to Provide Water and Sewer Service to Areas Zoned by Municipalities for Industrial and Light Industrial Uses"  
S.P. 381 L.D. 1240

Presented by President LAWRENCE of York  
Cosponsored by Representative WHEELER of Eliot and Representative: WRIGHT of Berwick

Which were referred to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and **ORDERED PRINTED**.

Sent down for concurrence.

---

On motion by Senator RAND of Cumberland, the Senate **RECONSIDERED** whereby it **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** the following:

Resolve, to Convene a Study Group to Identify Access to Public Landings and Their Facilities by Persons Engaged in Commercial Fishing  
S.P. 376 L.D. 1235

On further motion by same Senator, **TABLED** until Later in Today's Session, pending **REFERENCE**.

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Bill "An Act to Protect the Privacy of Genetic Information"  
S.P. 384 L.D. 1243

Presented by Senator RAND of Cumberland  
Cosponsored by Senators: AMERO of Cumberland, JENKINS of Androscoggin, PARADIS of Aroostook, PINGREE of Knox, TREAT of Kennebec, Representatives: MITCHELL of Vassalboro, QUINT of Portland

Which was referred to the Committee on **BANKING AND INSURANCE** and **ORDERED PRINTED**.

Sent down for concurrence.

---

Bill "An Act to Better Inform Car Repair Customers"  
S.P. 352 L.D. 1171

Presented by Senator RAND of Cumberland  
Cosponsored by Senators: MICHAUD of Penobscot, PINGREE of Knox, Representatives: AHEARNE of Madawaska, FISHER of Brewer, LEMAIRE of Lewiston, MUSE of South Portland  
Submitted by the Department of the Attorney General pursuant to Joint Rule 204.

Bill "An Act to Amend the Charter of the Northern Maine Development Commission, Inc."  
S.P. 358 L.D. 1177

Presented by Senator KIEFFER of Aroostook  
Cosponsored by Senator: HARRIMAN of Cumberland, Representatives: AHEARNE of Madawaska, BELANGER of Wallagrass, BELANGER of Caribou, CLUKEY of Houlton, DONNELLY of Presque Isle, JOY of Crystal, WHEELER of Bridgewater

Which were referred to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**.

Sent down for concurrence.

---

Bill "An Act to Expand the Harassment Laws"  
S.P. 359 L.D. 1218

Presented by Senator KILKELLY of Lincoln  
Cosponsored by Representative PEAVEY of Woolwich and Senator: MITCHELL of Penobscot, Representatives: FRECHETTE of Biddeford, MCALEVEY of Waterboro, OTT of York, POVICH of Ellsworth, WHEELER of Bridgewater  
Submitted by the Department of Corrections pursuant to Joint Rule 204.

Bill "An Act to Expand the Monitoring of the Conversations of Prisoners"  
S.P. 364 L.D. 1223

Presented by Senator MURRAY, JR. of Penobscot  
Cosponsored by Representative POVICH of Ellsworth and Senator: MITCHELL of Penobscot, Representatives: FRECHETTE of Biddeford, MCALEVEY of Waterboro, WHEELER of Bridgewater  
Submitted by the Department of Corrections pursuant to Joint Rule 204.

Which were referred to the Committee on **CRIMINAL JUSTICE** and **ORDERED PRINTED**.

Sent down for concurrence.

---

Bill "An Act to Authorize the Conversion and Reuse of the Perry Hayden Hall at Pineland Center as an Elementary School" (Emergency) S.P. 370 L.D. 1229

Presented by Senator BUTLAND of Cumberland  
Cosponsored by Senator: SMALL of Sagadahoc,  
Representatives: FOSTER of Gray, KONTOS of Windham,  
SNOWE-MELLO of Poland

Bill "An Act to Amend the Laws Relating to State Agency Clients" S.P. 377 L.D. 1236

Presented by Senator SMALL of Sagadahoc  
Cosponsored by Senator: O'GARA of Cumberland,  
Representatives: BELANGER of Caribou, BRENNAN of  
Portland  
Submitted by the Department of Education pursuant to Joint  
Rule 204.

Which were referred to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and **ORDERED PRINTED**.

Sent down for concurrence.

---

Bill "An Act to Provide Continuity and Flexibility for Long-term Care" S.P. 357 L.D. 1176

Presented by Senator BENNETT of Oxford  
Cosponsored by Representative GAGNE of Buckfield and  
Representative: MARVIN of Cape Elizabeth

Bill "An Act to Require Minimum Standards for State-funded Child Care Providers" S.P. 365 L.D. 1224

Presented by Senator PARADIS of Aroostook  
Cosponsored by Representative PIEH of Bremen and  
Senators: KILKELLY of Lincoln, MITCHELL of Penobscot,  
Representatives: AHEARNE of Madawaska, LOVETT of  
Scarborough, O'BRIEN of Augusta

Bill "An Act to Amend the Maine Children's Trust Incorporated" S.P. 366 L.D. 1225

Presented by Senator CLEVELAND of Androscoggin

Bill "An Act Concerning the Outdoor Gathering Laws" S.P. 371 L.D. 1230

Presented by Senator BENOIT of Franklin  
Cosponsored by Representative MERES of Norridgewock

Bill "An Act to Improve the Delivery and Financing of Long-term Care" S.P. 382 L.D. 1241

Presented by Senator BENNETT of Oxford  
Cosponsored by Representative WINSOR of Norway and  
Representatives: DONNELLY of Presque Isle, MARVIN of  
Cape Elizabeth, OTT of York

Which were referred to the Committee on **HEALTH AND HUMAN SERVICES** and **ORDERED PRINTED**.

Sent down for concurrence.

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Bill "An Act Regarding the Leasing of Buildings" (Emergency) S.P. 372 L.D. 1231

Presented by President LAWRENCE of York  
Cosponsored by Representative OTT of York and  
Representative: WHEELER of Eliot

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

Sent down for concurrence.

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Bill "An Act to Amend the Retirement System as it Pertains to Qualified Survivors" S.P. 367 L.D. 1226

Presented by Senator BENOIT of Franklin  
Cosponsored by Representative GOOLEY of Farmington

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

Sent down for concurrence.

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Bill "An Act to Permit Whitewater Rafting Guides to Be Paid at a Daily Rather Than an Hourly Rate" S.P. 362 L.D. 1221

Presented by Senator MILLS of Somerset

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

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending **REFERENCE**.

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Bill "An Act Regarding the Funded Depreciation Accounts of the Maine Veterans' Homes" S.P. 353 L.D. 1172

Presented by Senator BENNETT of Oxford  
Cosponsored by Representative GAGNE of Buckfield

Which was referred to the Committee on **LEGAL AND VETERANS AFFAIRS** and **ORDERED PRINTED**.

Sent down for concurrence.

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Bill "An Act to Preserve Public Access to Governmental Information through Libraries Regardless of Format or Medium" (Emergency) S.P. 354 L.D. 1173

Presented by Senator TREAT of Kennebec  
Cosponsored by Senators: ABROMSON of Cumberland,  
PENDLETON of Cumberland, RAND of Cumberland,  
Representatives: FULLER of Manchester, MCKEE of Wayne

Bill "An Act to Require Economic Impact Criteria on State Procurement Procedures" S.P. 361 L.D. 1220

Presented by Senator BUTLAND of Cumberland  
Cosponsored by Senator: KILKELLY of Lincoln,  
Representative: BRUNO of Raymond

Bill "An Act to Establish the Permanent Compensation Policy Commission for Upper-level Positions in State Government and State Education Institutions" S.P. 369 L.D. 1228

Presented by Senator MILLS of Somerset

Bill "An Act to Require Legislators to Disclose Their Interest in Pending Legislation" S.P. 378 L.D. 1237

Presented by Senator LONGLEY of Waldo  
Cosponsored by Senator: PARADIS of Aroostook

Resolution, Proposing an Amendment to the Constitution of Maine to Make Changes in the Selection and Term of the Secretary of State and Succession of the Office of Governor S.P. 379 L.D. 1238

Presented by Senator BENNETT of Oxford  
Cosponsored by Representative DONNELLY of Presque Isle and Representatives: JOY of Crystal, OTT of York, VEDRAL III of Buxton, WINSOR of Norway

Bill "An Act to Promote the Effective Delivery of Public Services" S.P. 383 L.D. 1242

Presented by Senator RAND of Cumberland  
Cosponsored by Representatives: BOLDUC of Auburn, HATCH of Skowhegan, JABAR, SR. of Waterville, QUINT of Portland, SAMSON of Jay, SAXL of Portland, SHIAH of Bowdoinham, TESSIER of Fairfield

Which were referred to the Committee on **STATE AND LOCAL GOVERNMENT** and **ORDERED PRINTED**.

Sent down for concurrence.

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Bill "An Act to Amend the Tax-exempt Status of Property Owned by Certain Nonprofit Organizations" S.P. 360 L.D. 1219

Presented by Senator RUHLIN of Penobscot  
Cosponsored by Representatives: AHEARNE of Madawaska, BUCK of Yarmouth, JONES of Bar Harbor, POVICH of Ellsworth, SAMSON of Jay

Bill "An Act to Provide Equity in the Laws Regarding the Excise Tax Levied on Pickup Trucks" S.P. 363 L.D. 1222

Presented by Senator RUHLIN of Penobscot  
Cosponsored by Representatives: AHEARNE of Madawaska, BUCK of Yarmouth, JONES of Bar Harbor, POVICH of Ellsworth, SAMSON of Jay

Bill "An Act to Eliminate the Lodging Tax for Seasonal Rentals for Campsites" S.P. 374 L.D. 1233

Presented by Senator BENNETT of Oxford  
Cosponsored by Representative KERR of Old Orchard Beach and Senators: MICHAUD of Penobscot, MILLS of Somerset, Representatives: BUCK of Yarmouth, CIANCHETTE of South Portland, GREEN of Monmouth, KNEELAND of Easton, OTT of York, SPEAR of Nobleboro

Which were referred to the Committee on **TAXATION** and **ORDERED PRINTED**.

Sent down for concurrence.

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Bill "An Act to Require the Department of Transportation to Improve the Conditions of Any Road That May be Turned Over to a Municipality" (Emergency) S.P. 368 L.D. 1227

Presented by Senator HARRIMAN of Cumberland  
Cosponsored by Representative BULL of Freeport and Senators: GOLDTHWAIT of Hancock, HALL of Piscataquis, LIBBY of York, MITCHELL of Penobscot, Representatives: FISHER of Brewer, MACK of Standish, VEDRAL III of Buxton, WHEELER of Eliot

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

Sent down for concurrence.

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Off Record Remarks

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## COMMITTEE REPORTS

### Senate

#### Change of Reference

Senator **LAFOUNTAIN** for the Committee on **BANKING AND INSURANCE** on Bill "An Act to Clarify the Laws Governing the Calculation of Interest on Decrees under the Workers' Compensation Laws" S.P. 197 L.D. 625

Reported that the same be **REFERRED** to the Committee on **LABOR**.

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

The Bill **REFERRED** to the Committee on **LABOR**.

Sent down for concurrence.

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Senator **JENKINS** for the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Conform the Provisions of the Maine Business Corporation Act Regarding Derivative Proceedings to the Provisions of the Federal Revised Model Business Corporations Act" S.P. 285 L.D. 893

Reported that the same be **REFERRED** to the Committee on **JUDICIARY**.

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

The Bill **REFERRED** to the Committee on **JUDICIARY**.

Sent down for concurrence.

**Ought to Pass**

Senator **RAND** for the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Allow Members of Cooperatives to Vote by Proxy" S.P. 60 L.D. 170

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

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

The Bill **READ ONCE**.

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

Senator **LONGLEY** for the Committee on **JUDICIARY** on Bill "An Act to Adjust the Residency Requirement for District Court Judges to Include the Counties in Which They Reside" S.P. 163 L.D. 492

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

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

The Bill **READ ONCE**.

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

Senator **LONGLEY** for the Committee on **JUDICIARY** on Bill "An Act to Permit the State Court Administrator to Accept Funds from the Federal Government and Private Sources" S.P. 204 L.D. 663

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

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

The Bill **READ ONCE**.

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

**SECOND READERS**

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

**Senate**

Bill "An Act to Change How the Mileage Allowance is Determined for Sheriffs and Deputies" S.P. 68 L.D. 207

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

Sent down for concurrence.

**ENACTORS**

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

An Act Concerning Dangerous Buildings in the Unorganized Territories H.P. 38 L.D. 63 (H "A" H-2)

An Act to Make Technical Changes in Laws Authorizing the Sale of the Pineland Center H.P. 133 L.D. 175

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

**ORDERS OF THE DAY**

**Unfinished Business**

The following matter in the consideration of which the Senate was engaged at the time of Adjournment had preference in the Orders of the Day and continued with such preference until disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later (2/20/97) Assigned matter:

**SENATE REPORTS** - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Permit Municipalities to Restrict the Sale of Tobacco Products" S.P. 72 L.D. 211

Majority - **Ought to Pass** (11 members)

Minority - **Ought Not to Pass** (1 member)

Tabled - February 20, 1997, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, February 20, 1997, Reports **READ**.)

Senator **NUTTING** of Androscoggin moved to **ACCEPT** the Majority **OUGHT TO PASS** Report.

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

Senator **NUTTING:** Thank you Mr. President, men and women of the Senate. I just want to speak briefly about this eleven to one, by-partisan, Committee Report out of the State and Local Government Committee. I'm sure you've heard of this bill, the halls have been full of people trying to lobby this issue. This L.D. 211 is permissive, legislation only, it repeals the provision of the law that prohibited municipalities from enacting ordinances concerning the sale of tobacco products. Currently, in Maine, there is one community that has a local ordinance, concerning the sale of tobacco products. Life has still gone on in

that community, the sale of tobacco products has continued, and yet, that community has regulated the sale of tobacco products the way they wanted to. I'm not going to tell the community's in my Senate District, or any other part of Maine, that one community can have an ordinance, and they can't. This has been looked at, I know they just submitted a letter from the Attorney General's Office, and, I just wanted to read the last sentence, "And be clear that this Department would not discourage the legislature from enacting L.D. 211". I'm sure there's others who want to speak on this issue, but, I'd encourage your support of the Majority Ought to Pass Report, it's a local control issue. Thank you.

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

Senator **LIBBY:** Thank you Mr. President, men and women of the Senate. Just like to make a couple of observations before we go on and enact this bill, if we do. I think first of all, it makes some sense to allow for home-rule under most of the conditions that we take a look at here in this Senate, excuse me, in this Body; But, in this particular case, I don't believe that it necessarily is the right thing to do. It makes more sense, under these conditions, for consistent regulations across the State, and I think that for the benefit for both retailers and wholesalers, in order for them to understand the laws as they pertain to them, I think it's important to consider the fact that if we enact this legislation, we might be facing five hundred different communities with five hundred different laws on one particular product. I think it's particularly, important to consider the ramifications of the bill, in terms of the cost on local government, and it's in this area that I have my greatest concern about the bill. I think it's important to think about what the cost will be to municipalities if we decide to enact this legislation; What will the cost be? What will happen? What will be triggered by this legislation? First of all, I think what you are going to see, and this is speculation on my part, but I think it's pretty accurate. I think what you're going to see is, whether they be anti-tobacco, or anti-smoking advocates that bring this issue to their local municipalities, or whether it just be, you know, the average citizen. I think what you're going to see is a series of public hearings, back in your local community, and that series of local hearings has a definite cost to it. A serious cost to it. It's going to take a lot of important taxpayers funds and tie it up in a process, that really, maybe, belongs in this arena, right here. Think about it for a minute. Community by Community, one by one, having a series of hearings on the regulation of tobacco, I think you're going to see a major, major cost to that, and, maybe municipalities, instead of asking for home-rule on every single issue, maybe, if you check back home with your municipalities, they may not be in favor of, community by community, having long, drawn-out hearings. What will come along with those hearings is the usual, media circus, and, I think it's important to note that as well. One by one, community by community, I can picture it in York County today. We're going to have the media coming down to your local town halls, to your local meeting places, and almost a frenzied environment, having one person after another come up and testify in favor, in favor, in favor of, enacting stricter ordinances. Then you're going to have local mom and pop stores, and some of your local grocers come up there, in a very, hostile environment and have to say, "Look, this doesn't make sense for me, it's going to cost me a lot of money, it makes a difference in my business. And, do you really want to

push my business out of this town". It's going to be a very difficult, and very costly exercise, and an exercise in futility. Now normally, in a one-twelve Committee vote, I'm not going to stand up here and take the time of the Senators, and other Legislators and say, "Look, maybe this things not worth fighting". In this case, it really is. I want you to think about what you, as a legislator's, going to have to do, going to have to be involved in, upon enactment of this measure. I think the third, very important point to consider here is; What is the desired result of this measure? What is the desired result? Is it to reduce the rate of smoking among teens, for example? Now, that's a laudable, goal, and that's a goal that I, myself, want to be involved in. And, I think there's a whole lot of ways to accomplish that goal. But, will this legislation lead to that goal? I haven't, personally, been able to make that connection yet. I don't think that enacting this legislation is going to lead to that goal. It concerns me greatly, that we've got a law that's only two years old, that established a fee, and you know, I'm not big on fees in the first place, established a fee as an agreement that we will have consistent, regulation across the board. And then, two years later, we're going to turn around, and say to all of the individuals that worked so hard in putting this prior legislation together, we're going to say to them, "Sorry, the rules have changed". So, there's an awful lot of reasons here why I think we ought to consider our position, and consider it carefully. But, the most important of all, is the cost to your municipality, of having all of these hearings, and the time it's going to take, and the difficulty of putting this together. Thank you.

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

Senator **CAREY:** Thank you Mr. President. Mr. President, Members of the Senate. I'm not going to be supporting this measure, and I'd like to tell you why. I serve as a municipal official, and the last thing we need is more division in municipality. You're just going to start having people attending the meetings, who want to get rid of cigarettes. You're going to want to have somebody come to the meeting, at the following meeting because, they support cigarettes. We, in the municipality, have a lot more to do than trying to deal with problems that are statewide.

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

Senator **MILLS:** Thank you Mr. President, men and women of the Senate. This bill seeks to strike-out one simple, sentence from existing Maine law. A sentence that simply says that no municipality may grapple with the issue of how cigarettes are sold and marketed within our State. I can honestly, represent to you, that when that sentence went into Maine law, the four hundred and ninety-six communities that had something at stake, in that sentence, were not represented at the bargaining table here, in this building. Before that sentence was put into Maine law, there were several occasions, that I'm aware of around the State, where certain municipal groups took a local, sincere, and public-spirited, interest in addressing the issue of tobacco sales within their communities, in much the same fashion that local, public-spirited, citizens, over the years, have taken an interest, and are allowed to take an interest in the sale of alcohol, within the municipal borders. And, we have been very careful in this legislature, over the last fifty or sixty years, since

we've allowed alcohol to be sold and consumed, in this State, to prevent local options, and local choices, and to allow people in local communities to have a say in how alcohol is sold, and whether it shall be sold, and in what forms, and under what licenses within the borders of their communities. This existing, Maine law on cigarettes says that they have no voice, whatsoever, in determining the methods by which cigarettes are sold. I can't imagine what possessed us to put that sentence into Maine law, it's incredible to me. It is completely, consistent with the overall, nationwide, strategic, plan of the cigarette industry to use the device of exemptions, both at the federal level and the state level, to cut off the local debate over the issue of the sale of tobacco products. The only ordinance that exists in this State, that I'm aware of, is one that was passed in Westbrook, before this sentence went into law, and it says, I think, only two things; Basically that the people of Westbrook would prefer not to have vending machines, for sale of cigarettes, and there are no vending machines permitted in Westbrook. The other thing it says is, that tobacco products need to be sold face to face. And, there's also a requirement, in the Westbrook ordinance, that there be a sign indicating that you have to be eighteen years or older, in order to sell cigarettes. A pretty simple, straightforward, citizen-initiated measure that, as far as I know, created and imposed no great burdens on anybody and I'm not aware of anybody in Westbrook complaining about the expense of discussing this issue down at the City council chambers. When the day comes that we, as a legislature, have to act as though municipal government is a bunch of children, that the four hundred and ninety-six municipal governments in this State don't know what's good for them, and we have to protect them from themselves; That's not the democracy that I grew up in. Thank you.

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

**Senator CLEVELAND:** Thank you Mr. President, men and women of the Senate. I rise today because, I support the passage of this bill. As a former municipal official, as I know you are, it's abhorrent to me to suggest in the paternalistic sense, that we need to protect local officials from themselves, we need to protect local people from themselves, we need to protect local people from the exercise of democracy and the discussion of issues of interest and pertinence to them.. How arrogant. It seems to me that we allow them to make decisions about education, about economic development, about the social well-being of their community, about health issues, about traffic, but, we can't dare and let them talk about cigarettes. And, I would suggest to you the reason that we don't want them to talk about cigarettes is because the tobacco industry doesn't want them to talk about interests. The tobacco industry doesn't want to go up to a town council and talk about their product, and it's effect on the community. This tobacco industry doesn't want to talk about the access to children and the number of young people who are starting to smoke. They're the ones who don't want to have those stories in the paper day after day. We don't need to protect the local community, they're very capable of deciding on what issues they want to do. And remember, as every other speaker has said to you. This doesn't require a local community to take any action whatsoever. They can choose to take no action. It simply allows them to make a choice; It doesn't pre-empt their opportunity to make a choice in a decision which is good for their community. I would suggest to you, when we think

about costs, think about the social costs, think about the twenty-four hundred people who die, die every year in this State, as a result of the use of tobacco. Think of the cost to medicare and the health insurance industry, to treat the symptoms, as the result of tobacco use. Huge expense dwarfs any price you might pay for an ad to publicize a public meeting to discuss tobacco; Not even in the same league. I hope that as you consider this issue, that you recognize there's no pre-empted need for the State to decide for every community, despite it's size, despite it's resources, despite it's needs, despite it's unique circumstances that they have the intelligence, the where-with-all, and the right to discuss these issues and make decisions that are appropriate for themselves and the citizens within their community. I hope when the vote's taken that you will all vote for passage of the bill.

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

**Senator GOLDTHWAIT:** Thank you Mr. President, men and women of the Senate. This has been a long, awaited opportunity for me. When this particular piece of this bill was submitted last year, there were some objections raised, but, there was a sense that it would jeopardize a very good and very important piece of legislation, of which it was a part. And deferring to the people who had been intimately involved in examining that bill and in the debate, who had worked very hard to get that excellent piece of legislation passed, this was left in that bill at that time. Now it's in front of us, all by itself, not jeopardizing anything else, and, I think it's time that we passed this bill and repeal the section that prohibits our municipalities from regulating the sale of tobacco. It was looked at as a case of giving an inch to get a mile, but actually, we gave a mile to get an inch. This bill doesn't force municipalities to regulate tobacco sales, it allows them too. We want municipalities to do more for themselves, and then when it comes to this very important issue, we say, "We think we know better, we'll do it for you". These ordinances would still have to go through the normal municipal procedures, including public hearings. This is nothing that would happen by fiat at the local level. And, the businesses who are concerned about ordinances of this type would have every opportunity to make their case then, in front of people in their own community, who know the needs of their kids, who know the procedures of their businesses. The argument seems to be based on uniformity. We say that we have to have consistent laws or it gets too confusing for businesses to comply with them, that it would be inconvenient, it would be expensive to provide training. Well, businesses adapt to all kinds of other local ordinances. My town has a ban on the display of outdoor merchandise, it seems that businesses have been able to manage to adapt to that in my community, though they don't have to in neighboring communities. We have requirements for parking, for unloading, for packaging, for sign placement, and we manage to get our way through all of those at the local level. Why is this so different? And, even if it were confusing, even if it were expensive, we are not talking about regulating the display of toothpaste, or pretzels, we are talking about regulating a lethal product, proven to be detrimental to your health with any use at all. And I cannot think of another substance designed for human consumption which is always toxic, always, with any use at all. That's what we're talking about allowing our municipalities to regulate. And, who does this hurt the most? Our kids. Maine has one of the highest smoking rates for young people in this country, and one of the reasons, is because one of the main

sources of access to tobacco for children is shoplifting. And, that has to do a lot with where cigarettes are placed in the store. If they're near the door, in a display rack, it is ready access to young people. It's unfortunate, but that's the way it is. Healthcare costs estimated, in the State of Maine, for a year, for tobacco related illnesses, one hundred and ninety-seven million dollars, but, we don't think our municipalities should have the option to further regulate this product, if they so desire. I have a group called "PATCH" in my community, (A Planned Approach To Community Health). I have a very active kids' group in the high-school who works at controlling kids access to tobacco, and when they suggested controlling display of that product, I had to tell them that our State had voted not to let their town do that. It was embarrassing, they couldn't believe it, and I had a hard time making any kind of a decent explanation for that. Here are the questions I would like you to think about when you vote on this bill: Who convinced us to forbid municipalities to do this? Who has that kind of a hold on me? We're not Virginia, we don't grow tobacco, we don't manufacture tobacco products. Who convinced us? Who is the source of that influence? And, what is the source of that influence over this legislature, that we agree to pre-empt this authority? This is a case where an industry directed us to pre-empt home-rule, and we did it, and this is our chance to rectify it. There is absolutely no legitimate excuse not to do that. I urge you to vote for this bill, and Mr. President, when the vote is taken I ask for the yeas and nays.

Senator **GOLDTHWAIT** of Hancock, requested a Roll Call.

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

Senator **LIBBY:** Thank you Mr. President, men and women of the Senate. I rise for a second time to speak on this bill, to discuss some of the issues that have been raised. First of all I think it's important to note that, and I know you all realize this, that any municipality that has an issue, or a concern on the regulation of tobacco products, at the retail store for example, has every opportunity to come to the legislature, participate in hearings, submit bills through us, submit bills through members of the other Body, they have all kinds of opportunity to enact standards that are stricter than current law. They are not being denied that opportunity. Anyone that says they are being denied that opportunity, I would have to vehemently, disagree, that's what I'm up here for. I also want to bring up another important point, I think it's important that the legislature, and I try to put this as kindly as I can, it's important that we don't speak out of both sides of our mouths. I just learned the hard way, through a couple of other issues, the spreading of sludge, and also the sale of alcoholic beverages in retail stores, that there are lots of areas that we say, we cannot enact standards stricter than, and I'm talking about the municipality and the home-rule issue here, we say that all the time. And, I just, for example, had discussed a bill on the spreading of sludge, and I only bring it up here because it relates, to discuss that with the Committee of Jurisdiction, and I found out the hard way that sometimes it's necessary and important to govern these issues at the State level. Especially when you're talking about cost of doing business in Maine, which is already high, and the cost of running a municipality, which is also very high. In terms of the shoplifting issue, I just want to say that I agree that shoplifting is a problem and it was a part of the decision that I made in voting against this proposal. I do agree that something needs to be done, and I

think that we can do it. I think that we can come together as a legislature, and take action on the issue and the problem of shoplifting, and I think we need to do that. We need to submit separate legislation and discuss what can be done. And, I also want to note that there are federal rules that are going to be coming into play, here in the State of Maine, that will help do just that. And I think we need to let those rules take affect, and see what the significance of, and what the affect of those rules will be. So, while I think this is the politically, expedient thing to do, you know, voting in favor of this bill, and talking about home-rule, I just don't think it makes a lot of sense, in my opinion. Thank you.

**THE PRESIDENT:** The Chair would inquire how many more members intend to speak on this issue?

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Off Record Remarks

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

Senator **FERGUSON** of Oxford moved to **TABLE** until Later Today, pending the motion by Senator **NUTTING** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS** Report.

The Chair ordered a Division. 13 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion by Senator **FERGUSON** of Oxford, to **TABLE** until Later Today, **FAILED**.

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

Senator **FERGUSON:** Thank you Mr. President, ladies and gentlemen of the Senate. This is an issue that was put into legislation last year, it's a compromise issue, it was an issue that had the support of the legislature. Some of the considerations were economic in nature, that the mom and pop stores in our State, and indeed some of the chain stores that are in various municipalities, do receive funds for allowing cigarette displays, they have to be displayed in a manner so that they are observed by the clerks in these stores. And, a lot of these mom and pop stores are struggling to make a living, and when you're talking hundreds of dollars, and I've been informed that it may be in the thousands of dollars, this is maybe a break or go situation for those stores. I would, in the sake of time, I know we have to be down in the other Body, shortly, and quite a lot has been said on this bill, but, I would urge you to vote against the pending motion. This is something like motherhood, I hate to be on this side of the issue. I'm not a smoker, I never have smoked. I have smoked a cigarette, on occasion, Mr. President. I never inhaled, not like you Mr. President, but like our President Clinton, but, nevertheless I will urge you to vote against the pending motion. Thank you Mr. President.

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



The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result.

**ROLL CALL**

YEAS: Senators: ABROMSON, AMERO, CASSIDY,  
CATHCART, CLEVELAND, DAGGETT,  
GOLDTHWAIT, HALL, HARRIMAN, KIEFFER,  
KILKELLY, LAFOUNTAIN, LONGLEY, MILLS,  
MITCHELL, MURRAY, NUTTING, O'GARA,  
PARADIS, PENDLETON, RAND, SMALL, TREAT,  
PINGREE, PRESIDENT MARK W. LAWRENCE

NAYS: Senators: BENNETT, BENOIT, FERGUSON,  
LIBBY, MICHAUD

ABSENT: Senators: BUTLAND, CAREY, JENKINS,  
MACKINNON, RUHLIN

25 Senators having voted in the affirmative and 5 Senators having voted in the negative, with 5 Senators being absent, the motion by Senator **NUTTING** of Androscoggin, to **ACCEPT** the Majority **OUGHT TO PASS** Report **PREVAILED**.

The Bill **READ ONCE**.

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

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Off Record Remarks

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On motion by Senator **KIEFFER** of Aroostook, **RECESSED** until the sound of the bell.

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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

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On motion by Senator **PINGREE** of Knox, **ADJOURNED**, until Thursday, February 27, 1997, at 3:00 in the afternoon.