

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**

February 26, 1997

In Senate Chamber
Tuesday
March 4, 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

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

Dear President Lawrence and Speaker Mitchell:

Prayer by Reverend Charles Reed of the Second Baptist Church in Bowdoinham.

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

REVEREND CHARLES REED: Let us pray together. Our Father, we come this day to join our hearts in praise to You and to acknowledge Your sovereignty. To declare that You are Almighty and that You rule, and that ultimately, You are in control, over this State, this nation, this world and this Senate Body. Your Majesty, we come to lift our hearts in praise and thanksgiving to You for the abundance of Your grace, and for Your blessing upon us. Father, we thank You for the wonderful group of men and women that sit in this Chamber, who are willing to serve in this capacity to present their lives to make the decisions that affect this State. Father, we ask that You would bless each one in such a special way, that You would guide every thought, every decision that may be sensitive to Your will, to Your leading and to Your presence and all that they do. God, bless this State and the Governor that serves it, in which we come together in unity to show forth Your love, to teach Your will and yet too, as we come, to be mindful of the citizens of this State before all that we represent, and how what we do in this place affects the lives of those that are there. Lord, touch them as You touch us, for we commit ourselves in this Session to You, in the name of All Mighty God, even our Savior, Jesus the Christ. Amen.

L.D. 127 An Act to Prohibit Destruction of Any Artificial Structure within Baxter State Park

L.D. 244 An Act to Regulate the Use of Gates on Access Roads to Remote Ponds

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

Sincerely,

S/Sen. Marge L. Kilkelly
Senate Chair

S/Rep. George H. Bunker, Jr.
House Chair

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

Doctor of the Day, Laurel M. Coleman, M.D., Manchester.

The Following Communication: S.C. 58

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON BANKING AND INSURANCE**

February 26, 1997

Pledge of Allegiance led by Senator John Jenkins of Androscoggin.

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

Reading of the Journal of Thursday, February 27, 1997.

Dear President Lawrence and Speaker Mitchell:

Off Record Remarks

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

COMMUNICATIONS

The Following Communication: S.C. 57

L.D. 486 An Act Prohibiting Financial Institutions from Charging Fees for Verification of Sufficient Funds

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE**

L.D. 585 An Act to Protect the Confidentiality of Social Security Numbers

**COMMITTEE ON AGRICULTURE,
CONSERVATION AND FORESTRY**

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

Sincerely,

S/Sen. Lloyd P. LaFountain III
Senate Chair

S/Rep. Jane W. Saxl
House Chair

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

The Following Communication: S.C. 59

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

February 26, 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 bill out "Ought Not to Pass":

L.D. 384 An Act to Amend the Operating Under the Influence Laws to Discern whether an Offender Was Served Alcohol at a Licensed Establishment

We have also notified the sponsor and cosponsors 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. 60

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

February 26, 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. 90 Resolve, to Require the Department of Education to Study and Make Recommendations to Alleviate Sexual Harassment in Schools

L.D. 100 An Act to Require Elementary and Secondary School Teachers to Be Certified in Cardiopulmonary Resuscitation and Basic First Aid

L.D. 241 An Act to Reward Schools for Computer Competency

L.D. 319 An Act Regarding Rabies Vaccinations for Animals on School Grounds

L.D. 323 An Act to Assist Smaller School Districts Regarding Hiring Practices

L.D. 639 An Act Regarding the Filing of School Administrative Reports

L.D. 701 Resolve, to Establish a Tuition Rate for the Town of Dennysville

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. 61

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

February 26, 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 bill out "Ought Not to Pass":

L.D. 391 An Act to Allow Volunteer Work in a State Licensed Day-care Facility to Fulfill Requirements of the ASPIRE-JOB Program and to Establish a Statewide Toll-free Telephone Line for Reporting Welfare Fraud

We have also notified the sponsor and cosponsors 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. 62

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON INLAND FISHERIES AND WILDLIFE**

February 26, 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 Inland Fisheries and Wildlife has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 81 An Act to Improve the State's Moose Hunt

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

Sincerely,

S/Sen. Marge L. Kilkelly
Senate Chair

S/Rep. Norman R. Paul
House Chair

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

The Following Communication: S.C. 63

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

February 26, 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. 212 An Act to Permit Filing for the Probate of an Estate for up to 10 Years Following Death

L.D. 386 An Act to Amend the Civil Order of Arrest Procedures for Enforcement of Money Judgments

L.D. 435 An Act to Amend the Entry and Detainer Law as It Relates to Occupancy Incidental to Short-term Employment

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. 64

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

February 26, 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. 101 An Act to Allow Public Safety Employees to Purchase Their Military Time for Retirement Purposes

L.D. 346 An Act to Exempt Retail Shoe Store Employees Who Are Paid on a Commission Basis from the Minimum Wage Laws

L.D. 419 An Act to Change the Weekly Employee Pay Requirement in State Law

L.D. 632 Resolve, Directing the Department of Public Safety to Study the Issue of a Retirement Program for Firefighters

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. 65

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

February 26, 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 bill out "Ought Not to Pass":

L.D. 92 An Act to Establish State Auditor As an Appointed Position

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

Sincerely,

S/Sen. John M. Nutting
Senate Chair

S/Rep. Douglas J. Ahearn
House Chair

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

The Following Communication: S.C. 66

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

February 26, 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. 124 An Act to Repeal the Rental Fees for Road Signs

L.D. 161 An Act to Require that Cargo Being Hauled by Trucks Be Covered

L.D. 166 An Act to Issue Military Service Award License Plate Decals

L.D. 264 An Act to Create a License Plate for Women Veterans

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. 67

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

February 28, 1997

Joy J. O'Brien
Secretary of the Senate
3 State House Station
Augusta, Maine 04333
Dear Madam Secretary:

Pursuant to my authority under 20 MRSA, Section 11002, I have appointed Senator Mary R. Cathcart of Penobscot to the New England Board of Higher Education.

Please let me know if you have any questions regarding this appointment.

Sincerely,

S/Mark W. Lawrence
President of the Senate

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

The Following Communication: S.C. 68

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

February 28, 1997

Joy J. O'Brien
Secretary of the Senate
3 State House Station
Augusta, Maine 04333

Dear Madam Secretary:

Pursuant to my authority under 5 MRSA, Section 3358, I have appointed Senator Robert E. Murray, Jr. of Penobscot to the Maine Criminal Justice Commission.

Please let me know if you have any questions regarding this appointment.

Sincerely,

S/Mark W. Lawrence
President of the Senate

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

The Following Communication: S.C. 69

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

March 3, 1997

Joy J. O'Brien
Secretary of the Senate
3 State House Station
Augusta, Maine 04333

Dear Madam Secretary:

Pursuant to my authority under 22 MRSA, Section 3739, I have appointed Senator Susan W. Longley of Waldo to the Child Care Advisory Council

Please let me know if you have any questions regarding this appointment.

Sincerely,

S/Mark W. Lawrence
President of the Senate

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

The Following Communication: S.C. 70

**STATE OF MAINE
DEPARTMENT OF TRANSPORTATION
16 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0016**

March 3, 1997

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

Dear President Lawrence:

I am pleased to present to you and members of the Maine House of Representatives a copy of MDOT's Biennial Transportation Investment Program for the FY98-FY99 biennium (BTIP). This document represents priority capital improvement needs associated with all modes of transportation and continues the principles established under Maine's Sensible Transportation Policy Act (STPA) and the Federal Intermodal Surface Transportation Efficiency Act (ISTEA).

This program establishes paving, bridge replacement and bridge rehabilitation as the highest priorities for highway funding and nearly attains the recommended level of investment for these critical needs. Maine's passenger transportation system will also be expanded under this program and new freight transportation options will be provided to enhance competition for Maine businesses.

Unfortunately, due to the uncertainty of anticipated federal and state funding levels, the Department was unable to include any reconstruction projects as part of the BTIP. Once state and federal funding levels have been set, I will consider issuing a Supplemental Plan later this fall addressing highway reconstruction.

Over the coming months, I anticipate there will be significant dialogue and many considerations before the full financial picture is finalized. Therefore, changes in the present FY98-FY99 Biennial Transportation Investment Program may be warranted as well. I look forward to working with you on the implementation of the FY98-FY99 BTIP, as well as a reconstruction program later this fall.

Sincerely,

S/John G. Melrose
Commissioner

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

SENATE PAPERS

Bill "An Act to Provide for a General Fund Bond Issue in the Amount of \$25,000,000 as the State's Share for Completion of the Interstate Highway System North to the Canadian Border"

S.P. 415 L.D. 1336

Presented by Senator PARADIS of Aroostook
Cosponsored by Representative DONNELLY of Presque Isle and Senator: KIEFFER of Aroostook, Representatives: AHEARNE of Madawaska, BELANGER of Wallagrass, CLUKEY of Houlton, JOY of Crystal, KNEELAND of Easton, O'NEAL of Limestone, SIROIS of Caribou

Bill "An Act to Fund Regional Tourism Programs"

S.P. 425 L.D. 1373

Presented by Senator MILLS of Somerset

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

Sent down for concurrence.

Bill "An Act to Increase Mandatory Auto Insurance Limits"

S.P. 426 L.D. 1374

Presented by Senator MILLS of Somerset

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

Sent down for concurrence.

Bill "An Act Requiring Disclosures by Payroll Processing Companies"

S.P. 414 L.D. 1335

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

Resolve, Establishing a Blue Ribbon Commission to Study the Effect of Government Regulation on Small Businesses in Maine (Emergency)

S.P. 422 L.D. 1343

Presented by Senator MACKINNON of York
Cosponsored by Senators: JENKINS of Androscoggin, LIBBY of York, Representative: VIGUE of Winslow

Bill "An Act to Amend the Public Accountancy Laws"

S.P. 424 L.D. 1345

Presented by Senator HARRIMAN of Cumberland
Cosponsored by Representative CIANCHETTE of South Portland and Senators: CAREY of Kennebec, DAGGETT of Kennebec, JENKINS of Androscoggin, Representatives: BOLDUC of Auburn, HATCH of Skowhegan, LEMAIRE of Lewiston, MAYO III of Bath

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

Sent down for concurrence.

Bill "An Act Relating to Applied Technology in Western Washington County"

S.P. 400 L.D. 1295

Presented by Senator CASSIDY of Washington
Cosponsored by Representative BUNKER, JR. of Kossuth Township and Representatives: BAGLEY of Machias, GOODWIN of Pembroke

Bill "An Act to Amend the Reimbursement Policy Pertaining to Vocational Education"

S.P. 408 L.D. 1329

Presented by Senator FERGUSON, JR. of Oxford
Cosponsored by Representative: GAGNE of Buckfield

Bill "An Act to Amend the Laws Relating to Education"

S.P. 416 L.D. 1337

Presented by Senator SMALL of Sagadahoc
Cosponsored by Senator: PENDLETON of Cumberland, Representatives: DESMOND of Mapleton, MCELROY of Unity
Submitted by the Department of Education pursuant to Joint Rule 204.

Bill "An Act to Restructure Public Higher Education"

S.P. 417 L.D. 1338

Presented by Senator AMERO of Cumberland
Cosponsored by Representative BUCK of Yarmouth and Senators: BUTLAND of Cumberland, CAREY of Kennebec, HARRIMAN of Cumberland, Representatives: KERR of Old Orchard Beach, MARVIN of Cape Elizabeth, OTT of York

Bill "An Act to Establish a Public Education Assessment Advisory Commission"

S.P. 419 L.D. 1340

Presented by Senator MILLS of Somerset
Bill "An Act to Improve Maine's School Construction Laws"

S.P. 420 L.D. 1341

Presented by Senator NUTTING of Androscoggin
Cosponsored by Representative MCKEE of Wayne and Senators: PINGREE of Knox, TREAT of Kennebec, Representative: COWGER of Hallowell

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

Sent down for concurrence.

Bill "An Act to Amend the Aid to Families with Dependent Children Program"

S.P. 407 L.D. 1302

Presented by Senator RAND of Cumberland
Cosponsored by Representative SAXL of Portland and Senators: GOLDTHWAIT of Hancock, KILKELLY of Lincoln, MILLS of Somerset, PARADIS of Aroostook, Representatives: MAYO III of Bath, QUINT of Portland, TOWNSEND of Portland

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

Sent down for concurrence.

Bill "An Act to Amend the Maine Probate Code to Eliminate Interest on Claims of Creditors of Insolvent Estates"
S.P. 401 L.D. 1296

Presented by Senator MURRAY, JR. of Penobscot

Bill "An Act to Amend the Uniform Commercial Code as it Relates to Letters of Credit and Investment Securities"
S.P. 430 L.D. 1378

Presented by Senator MILLS of Somerset

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

Sent down for concurrence.

Bill "An Act to Increase the Number of Signatures Required for a Name to Appear on the Ballot for Certain Offices"
S.P. 405 L.D. 1300

Presented by Senator RUHLIN of Penobscot

Bill "An Act to Improve Procedures for Citizen Referenda and Initiatives"
S.P. 421 L.D. 1342

Presented by Senator MILLS of Somerset

Bill "An Act to Improve the State's Democracy by Increasing Access to the Ballot and Other Election Processes"
S.P. 428 L.D. 1376

Presented by Senator DAGGETT of Kennebec
Cosponsored by Representative TUTTLE, JR. of Sanford and Representative: COWGER of Hallowell
Submitted by the Secretary of State pursuant to Joint Rule 204.

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

Sent down for concurrence.

Resolve, to Establish the Council on Environmental Monitoring and Assessment
S.P. 404 L.D. 1299

Presented by Senator RUHLIN of Penobscot
Cosponsored by Representative KONTOS of Windham and Senators: HARRIMAN of Cumberland, NUTTING of Androscoggin

Bill "An Act to Ensure Adequate Review of Maintenance Dredging"
S.P. 409 L.D. 1330

Presented by Senator LAFOUNTAIN III of York

Cosponsored by Senator: TREAT of Kennebec,
Representative: MADORE of Augusta

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

Sent down for concurrence.

Bill "An Act Pertaining to Free Meals for Legislators during a Prayer Breakfast"
S.P. 402 L.D. 1297

Presented by Senator BENOIT of Franklin
Cosponsored by Representative JOY of Crystal and Senators: BUTLAND of Cumberland, DAGGETT of Kennebec, MILLS of Somerset, NUTTING of Androscoggin, Representatives: JABAR, SR. of Waterville, KASPRZAK of Newport, LAYTON of Cherryfield, SNOWE-MELLO of Poland

Bill "An Act to Continue and Expand the Duties of the Productivity Realization Task Force by Creating a Permanent Productivity Realization Council"
S.P. 406 L.D. 1301

Presented by Senator AMERO of Cumberland
Cosponsored by Representative DONNELLY of Presque Isle and Senators: ABROMSON of Cumberland, BENNETT of Oxford, FERGUSON, JR. of Oxford, GOLDTHWAIT of Hancock, MILLS of Somerset, Representatives: GIERINGER, JR. of Portland, MARVIN of Cape Elizabeth

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

Sent down for concurrence.

Bill "An Act to Create Incentives for Businesses to Move to Aroostook, Piscataquis and Washington Counties"
S.P. 413 L.D. 1334

Presented by Senator HARRIMAN of Cumberland
Cosponsored by Representative JOY of Crystal and Senators: CASSIDY of Washington, HALL of Piscataquis, KIEFFER of Aroostook, Representatives: BELANGER of Wallagrass, DONNELLY of Presque Isle, KNEELAND of Easton

Bill "An Act Relating to Municipal Excise Tax Reimbursement" (Emergency)
S.P. 418 L.D. 1339

Presented by Senator O'GARA of Cumberland
Submitted by the Secretary of State pursuant to Joint Rule 204.

Bill "An Act to Simplify the Individual Income Tax and Eliminate Filings with Low Returns"
S.P. 427 L.D. 1375

Presented by Senator MILLS of Somerset

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

Sent down for concurrence.

Bill "An Act Regarding Restrictions Placed on Certain Motor Vehicles That Travel on a Public Way" S.P. 403 L.D. 1298

Presented by Senator PENDLETON of Cumberland
Cosponsored by Representative: STEDMAN of Hartland

Bill "An Act Regarding Show Lights on Motor Vehicles"
S.P. 410 L.D. 1331

Presented by Senator PARADIS of Aroostook
Cosponsored by Representative BELANGER of Wallagrass
and Senator: MICHAUD of Penobscot, Representatives:
AHEARNE of Madawaska, O'NEAL of Limestone, SIROIS of
Caribou

Bill "An Act to Permit the Sale of Used License Plates"
S.P. 411 L.D. 1332

Presented by Senator PARADIS of Aroostook
Cosponsored by Representative BELANGER of Wallagrass
and Senator: MICHAUD of Penobscot, Representatives:
AHEARNE of Madawaska, DAVIDSON of Brunswick,
KNEELAND of Easton, O'NEAL of Limestone, SIROIS of
Caribou

Resolve, Regarding the Posting of Certain Roads by the
Department of Transportation S.P. 412 L.D. 1333

Presented by Senator PARADIS of Aroostook
Cosponsored by Representative DONNELLY of Presque Isle
and Senators: KIEFFER of Aroostook, MICHAUD of
Penobscot, Representatives: AHEARNE of Madawaska,
BELANGER of Wallagrass, CLUKEY of Houlton, JOY of
Crystal, KNEELAND of Easton, O'NEAL of Limestone

Resolve, to Establish a Maine Mobility Fund Task Force
(Emergency) S.P. 429 L.D. 1377

Presented by Senator O'GARA of Cumberland
Cosponsored by Representative DRISCOLL of Calais and
Senators: CASSIDY of Washington, PINGREE of Knox,
Representatives: BERRY of Livermore, CHARTRAND of
Rockland, CLUKEY of Houlton, KONTOS of Windham,
SAVAGE of Union, WHEELER of Eliot

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

Sent down for concurrence.

Bill "An Act to Clarify the Jurisdiction of the Public Utilities
Commission over Telecommunication Utilities' Special Rate
Contracts" S.P. 399 L.D. 1294

Presented by Senator CAREY of Kennebec
Cosponsored by Representative JONES of Bar Harbor and
Representative: TAYLOR of Cumberland
Submitted by the Public Utilities Commission pursuant to
Joint Rule 204.

Bill "An Act to Create the Mt. Blue Standard Water District"
(Emergency) S.P. 423 L.D. 1344

Presented by Senator BENOIT of Franklin
Cosponsored by Representative LAVERDIERE of Wilton and
Representative: GOOLEY of Farmington

Which were referred to the Committee on **UTILITIES AND
ENERGY** and **ORDERED PRINTED**.

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon
were ordered sent down forthwith for concurrence.

COMMITTEE REPORTS

House

Ought to Pass

The Committee on **BUSINESS AND ECONOMIC
DEVELOPMENT** on Bill "An Act to Repeal the Task Force on
Defense Realignment and the Economy" H.P. 221 L.D. 285

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

Comes from the House with the Report **READ** and
ACCEPTED and the Bill **PASSED TO BE ENGROSSED**.

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

The Bill **READ ONCE**.

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

The Committee on **CRIMINAL JUSTICE** on Bill "An Act to
Provide a Time Limit Extension for Basic Corrections Training"
H.P. 192 L.D. 245

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

Comes from the House with the Report **READ** and
ACCEPTED and the Bill **PASSED TO BE ENGROSSED**.

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

The Bill **READ ONCE**.

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

The Committee on **LABOR** on Bill "An Act to Continue the
Participating Local District Consolidated Plan Advisory
Committee" (Emergency) H.P. 565 L.D. 756

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

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

The Bill **READ ONCE**.

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

The Committee on **TRANSPORTATION** on Resolve, to Name a Section of Route 26 in Bethel in Oxford County in Memory of Captain Carl R. Churchill, United States Air Force, Killed in Action in Laos, May 3, 1970 H.P. 95 L.D. 119

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED**.

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

The Resolve **READ ONCE**.

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

The Committee on **TRANSPORTATION** on Resolve, to Name a Portion of Highway in Milbridge in Honor of David Kennedy H.P. 155 L.D. 197

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED**.

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

The Resolve **READ ONCE**.

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

The Committee on **TRANSPORTATION** on Bill "An Act to Require the Department of Transportation to Notify Counties of Planned Bridge Projects at the Time of Planning" H.P. 173 L.D. 228

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

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

The Bill **READ ONCE**.

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

Senate

Ought to Pass

Senator **JENKINS** for the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Amend the Employee Leasing Company Registration Process" S.P. 147 L.D. 426

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 Amend the Fee Schedule for Probate Filings" S.P. 138 L.D. 417

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 Change the Time for Appointment of a Visitor or Guardian Ad Litem after Appointment of a Temporary Conservator or Guardian" S.P. 165 L.D. 494

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:

House

Bill "An Act to Terminate Spousal Support upon the Death of the Payee" H.P. 187 L.D. 240

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

ORDERS OF THE DAY

Unfinished Business

The following matters 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 Specially (3/4/97) Assigned matter:

Resolve, to Require the Governor to Provide for Ballast Water Management Planning H.P. 885 L.D. 1202

Tabled - February 27, 1997, by Senator RAND of Cumberland.

Pending - REFERENCE

(In House, February 25, 1997, referred to the Committee on NATURAL RESOURCES and ORDERED PRINTED.)

On motion by Senator PINGREE of Knox, referred to the Committee on MARINE RESOURCES in NON-CONCURRENCE.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Specially (3/4/97) Assigned matter:

Bill "An Act to Reform the Maine Tree Growth Tax Law" H.P. 883 L.D. 1200

Tabled - February 27, 1997, by Senator KILKELLY of Lincoln.

Pending - REFERENCE

(In House, February 25, 1997, referred to the Committee on TAXATION and ORDERED PRINTED.)

On motion by Senator RUHLIN of Penobscot, referred to the Committee on AGRICULTURE, CONSERVATION AND FORESTRY in NON-CONCURRENCE.

Sent down for concurrence.

Senator PINGREE of Knox was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

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

Off Record Remarks

Senator CATHCART of Penobscot was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senator RUHLIN of Penobscot was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

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

Off Record Remarks

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

Off Record Remarks

On motion by Senator PINGREE of Knox, RECESSED until the sound of the bell.

After Recess

Senate called to order by the President

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (2/27/97) Assigned matter:

Bill "An Act to Reduce Teenage Smoking by Increasing the Tax on Cigarettes to Fund an Advertising Campaign" H.P. 894 L.D. 1211

Tabled - February 27, 1997, by Senator RAND of Cumberland.

Pending - REFERENCE

(In House, February 25, 1997, referred to the Committee on TAXATION and ORDERED PRINTED.)

On motion by Senator MITCHELL of Penobscot, referred to the Committee on HEALTH AND HUMAN SERVICES in NON-CONCURRENCE.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (2/27/97) Assigned matter:

Bill "An Act to Amend the Tax on Pipe Tobacco and Cigars".
H.P. 931 L.D. 1278

Tabled - February 27, 1997, by Senator **RAND** of
Cumberland.

Pending - **REFERENCE**

(In House, February 27, 1997, referred to the Committee on
TAXATION and **ORDERED PRINTED**.)

On motion by Senator **DAGGETT** of Kennebec, referred to
the Committee on **TAXATION** and **ORDERED PRINTED**, in
concurrence.

The Chair laid before the Senate the following Tabled and
Later (3/4/97) Assigned matter:

Bill "An Act to Permit Municipalities to Restrict the Sale of
Tobacco Products" S.P. 72 L.D. 211

Tabled - February 27, 1997, by Senator **RAND** of
Cumberland.

Pending - motion by Senator **BENNETT** of Oxford to **ADOPT**
Senate Amendment "A" (S-11)

(In Senate, February 27, 1997, **READ A SECOND TIME**. On
motion by Senator **BENNETT** of Oxford, Senate Amendment "A"
(S-11) **READ**.)

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

Senator **BENNETT:** Thank you Mr. President, fellow
members of the Senate. I sat silent through last Tuesday's
debate on this issue, now I rise to address this important issue. I
rise as one who has consistently voted to diminish smoking in
this State. I concur wholeheartedly with the intent of the bill; but,
last week I was driven to vote no on accepting the Committee
Report and I'll tell you why. Two years ago we established a new
state license for the retail sale of tobacco products. That's good.
What I object to today however, is turning over to municipalities
the effective, regulatory authority commanded by that state
licensing. In my opinion, we would be better served by
consistent and top restrictions across the State than by a
patchwork of regulations, some lax and some tough, from town
to town. Simply put, if we at the State level choose to license a
retail activity, we ought to regulate, at the State level, the
activities permitted by that license. So, today I offer an
amendment which, in my opinion, meets that concern but
preserves the purpose of the bill. This amendment would mirror
the provisions of our laws regulating alcohol sales, the retail
sales of alcohol. It would replace the broad regulatory powers
afforded municipalities in the bill with a simple choice. Either
allow the sales of tobacco products in your town under State
rules, or prohibit such sales completely. Like a town's choice of
going wet or dry with alcohol, a town under this amendment
could choose to go clear or cloudy. Under this amendment,
towns ought to be happy because home-rule is preserved as it
relates to the central issue of whether tobacco sales should be

allowed. Business operators ought to be happy because it
creates no inconsistency in regulation from town to town. And I
believe, anti-smoking advocates ought to be happy because it
expands the battle over smoking to each community hall through
the ultimate in pre-emption. This amendment would insure
consistency and home-rule. I respectfully offer this amendment
for your favorable consideration and urge its adoption. Thank
you.

At the request of Senator **MILLS** of Somerset, 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
Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you Mr. President, ladies
and gentlemen of the Senate. This amendment in no way
satisfies my concerns about pre-emption of home-rule. Home-
rule is not a narrow authority in which we suggest the specific
and narrow question that a municipality may ask or may decide.
It is a far broader authority in which the municipalities actually
have an active role in forming the policies that they choose to at
the local level. The suggestion has been made that we should
pass consistent and tough regulations at the State level and I
submit to you that this particular repeal of one or two sentences
of statute is a very good indication of why consistent and tough
regulations are so difficult to pass at the State or any other level.
There's a piece of paper that came across my desk today that
said, "Do not be strayed by the political winds". I think that's
excellent advice. And the last thing I'd like to say on this issue is
that according to the pre-emption language of the federal law, as
I understand it, and I will warn you that as a non-attorney my
understanding may be imperfect, but the letter of opinion from
our own Attorney General says that the provision states that
State or local governments may not regulate in areas covered by
FD regulations in a manner which is different from, or in addition
to, any requirement in the regulations. And I would submit that
the amendment, as now suggested, is different from or in
addition to those requirements and therefore, municipalities
would not have the authority to enact such an ordinance. Thank
you Mr. President.

THE PRESIDENT: The pending question before the Senate
is the motion by the Senator from Oxford, Senator Bennett that
the Senate Adopt Senate Amendment "A" (S-11).

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result.

ROLL CALL

YEAS: Senators: **BENNETT, BENOIT, BUTLAND,**
FERGUSON, LIBBY

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

ABSENT: Senator: MICHAUD

5 Senators having voted in the affirmative and 29 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **BENNETT** of Oxford to **ADOPT** Senate Amendment "A" (S-11), **FAILED**.

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 to oppose the measure and my reasoning has not changed too much since the last time that we debated this issue, but, I'd like to add just a few further comments to what I have explained to you before. First of all, I want to truly get across to this Body my complete condition and belief that controlling supply does not necessarily change the demand for any given product. Even in the economists logic is divided, so you may disagree with that and I would understand that. But, in my opinion, if you put more restrictions on the supply of tobacco, whether it be here at the State level or at the local level, you're not going to change the demand for the products. In order to change the demand for the product, if you want to lower the demand for the product, you're going to have to change the penalty for the use of the product. If you increase the penalty for the use of the product and also increase the penalty for providing the product to the user, those two issues, you will be successful if your goal is to reduce their level of smoking, especially among young people, you will be successful at doing that. And those are measures that I would favor. Making stores the bad guy in all of this, and that to me is what this legislation does, it is saying to the retail stores, the mom and pop stores, "Look, you're allowing the product to get into the hands of young people". Making them the bad guy in all of this is not the answer to our problems, it will not solve our problems. It instead, is one more nail in the coffin of mom and pop grocery stores around the State. Secondly is the whole issue of enforcement. We cannot enforce four hundred or five hundred different laws in the State of Maine if the towns are to go ahead and enact new provisions. And that's what I'm afraid of here; What we're going to get involved with is running around trying to enforce a problem at the retail level and not focusing in on the problem, the problem of young people smoking or using tobacco products. We need to focus on the problem, and I think we need to do that in a steadfast manner. We just have to talk about the user. So, it comes down again, to me, to be a question of personal responsibility, what will the implications of this bill be. Well, if we take the route of personal responsibility, we vote against this particular bill. If we do not, I think what you're going to see is a number of things, you're going to see first of all, people finding other ways to get the product, whether it be to cross the border into New Hampshire, or whether it be the increase in a black market for the product, or whether older folks are approached for

the product. Again, like I said, I think the penalties for those kinds of issues should be increased, if that is our social objective. So to me, I think what we've seen even in the past week, is stricter federal laws, we're making progress. Penalizing the stores won't do that, so I hope you'll join me in voting against the pending motion. Thank you.

The Chair ordered a Division. 27 Senators having voted in the affirmative and 4 Senators having voted in the negative, the Bill was **PASSED TO BE ENGROSSED**.

Sent down for concurrence.

On motion by Senator **LIBBY** of York, **ADJOURNED**, until Wednesday, March 5, 1997, at 10:00 in the morning.