

# 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 SPECIAL SESSION  
JOURNAL OF THE SENATE**

In Senate Chamber  
Wednesday  
April 16, 1997

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

Prayer by Reverend Ken Turley of the Church of the New Jerusalem in Fryeburg.

**REVEREND KEN TURLEY:** Dear God, Creator and sustainer and divine spirit of, and within, all that is, we lift our hearts and minds in thanks for this day. We give thanks for the gift of life and for another opportunity to offer ourselves in service.

O God, You have created the mountains and the mud puddles, the deer and the wolf, the whale and the mosquito, and You have created the human being. Today we ask You to help us find our place within the natural harmony of Your creation. We ask Your guidance that we might not shame, but rather rise to fulfill, the image and likeness in which we are created.

Help us to remember that money and power are not ends, but tools to be used with great care that we harm neither others nor ourselves nor the delicate balance of the natural order. Help us to remember, as we struggle with the challenges of living in the material realm, that ultimately the quality of life is measured by the spiritual values of love and wisdom.

O God, as we enter into this day, we ask Your blessings and guidance that our words and our actions, our deliberations and our decisions, be both an outward and inward fulfillment of Your commandment that we love one another as You have loved us. Amen.

Doctor of the Day, Eric Nicholas, M.D., Mars Hill.

Reading of the Journal of Tuesday, April 15, 1997.

Pursuant to Senate Rule 201.1, the President appointed the Senator from Cumberland, Senator **RAND** to serve as President Pro Tem for the session on Thursday, April 17, 1997.

Off Record Remarks

**PAPERS FROM THE HOUSE**

**House Papers**

Bill "An Act to Provide Licensing for Micropigmentation Practitioners" H.P. 1270 L.D. 1796

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

Which was referred to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**, in concurrence.

Bill "An Act Regarding Illegal Transportation of Drugs by a Minor" H.P. 1262 L.D. 1789

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

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

Bill "An Act to Bring the State into Conformity with the Firearms Provisions of the Violence against Women Provisions of the Federal Violent Crime Control Act" H.P. 1264 L.D. 1791

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

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

Bill "An Act to Control Brown Tail Moths" H.P. 1263 L.D. 1790

Bill "An Act to Decrease Young Adult and Adolescent Pregnancies" H.P. 1265 L.D. 1792

Come from the House, referred to the Committee on **HEALTH AND HUMAN SERVICES** and **ORDERED PRINTED**.

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

Bill "An Act Regarding the Activities of Nonprofit Corporations" H.P. 1266 L.D. 1793

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

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

Bill "An Act to Amend the Provisions of the Disability Retirement Laws Administered by the Maine State Retirement System" (Emergency) H.P. 1271 L.D. 1797

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

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

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Bill "An Act to Privatize Liquor Sales" H.P. 1273 L.D. 1799

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

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

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Bill "An Act to Clarify the Qualifications of State Auditor" H.P. 1269 L.D. 1795

Comes from the House, referred to the Committee on **STATE AND LOCAL GOVERNMENT** and **ORDERED PRINTED**.

Which was referred to the Committee on **STATE AND LOCAL GOVERNMENT** and **ORDERED PRINTED**, in concurrence.

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Bill "An Act to Require Notice to Telephone Subscribers of the Sale or Transfer of an Interexchange Carrier or a Change in Rates" H.P. 1261 L.D. 1788

Bill "An Act to Create a Competitive Market for Electricity While Protecting Consumers and the Environment" H.P. 1267 L.D. 1794

Bill "An Act to Permit Electric Utilities to Restructure in Ways That Improve the Economy of the State" H.P. 1272 L.D. 1798

Bill "An Act to Restructure the State's Electric Industry" H.P. 1274 L.D. 1804

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

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

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#### SENATE PAPERS

Resolve, Authorizing the Exchange and Sale of Certain Public Lands S.P. 608 L.D. 1809

Presented by Senator PARADIS of Aroostook (GOVERNOR'S BILL)  
Cosponsored by Representative BELANGER of Wallagrass and Senator: MILLS of Somerset, Representatives: BELANGER of Caribou, DESMOND of Mapleton, HATCH of Skowhegan

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

Sent down for concurrence.

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Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$6,000,000 for Critical Marine Infrastructure and Technology Investments" S.P. 609 L.D. 1810

Presented by Senator GOLDTHWAIT of Hancock (GOVERNOR'S BILL)  
Cosponsored by Representative ETNIER of Harpswell and Senators: MACKINNON of York, PINGREE of Knox, Representative: DONNELLY of Presque Isle

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$10,000,000 for Construction of the Maine Criminal Justice Academy" S.P. 610 L.D. 1811

Presented by President LAWRENCE of York (GOVERNOR'S BILL)  
Cosponsored by Senators: AMERO of Cumberland, RAND of Cumberland, Representatives: MAYO III of Bath, MCALEVEY of Waterboro

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$10,000,000 to Address Federal and State Accessibility and Public Safety Issues" S.P. 612 L.D. 1813

Presented by Senator CATHCART of Penobscot (GOVERNOR'S BILL)  
Cosponsored by Representative STEVENS of Orono and Senators: BENNETT of Oxford, JENKINS of Androscoggin, LIBBY of York, MICHAUD of Penobscot, Representatives: DONNELLY of Presque Isle, DUNLAP of Old Town, KERR of Old Orchard Beach, KNEELAND of Easton

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

Sent down for concurrence.

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Bill "An Act to Authorize Department of Transportation Bond Issues in the Amount of \$79,500,000 to Match Available Federal Funds for Improvements to Municipal and State Roads, State and Local Bridges, Airports, State Ferry Vessels and Terminals and Rail and Marine Facilities" S.P. 611 L.D. 1812

Presented by Senator O'GARA of Cumberland (GOVERNOR'S BILL)  
Cosponsored by Representative CLUKEY of Houlton and Senators: BENNETT of Oxford, GOLDTHWAIT of Hancock, MICHAUD of Penobscot, PARADIS of Aroostook, Representatives: DRISCOLL of Calais, LAVERDIERE of Wilton, MAYO III of Bath, WINSOR of Norway

Which was referred to the Committees on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and **TRANSPORTATION** and **ORDERED PRINTED**.

Sent down for concurrence.

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**COMMITTEE REPORTS**

**House**

**Change of Reference**

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Establish a Residential Care Facility for Veterans in Washington County" H.P. 532 L.D. 723

Reported that the same be **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS**.

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

The Bill **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS**, in concurrence.

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**Ought to Pass As Amended**

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Require That Public Schools Adopt a Conflict Resolution Model" H.P. 301 L.D. 365

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-186)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-186)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-186) **READ** and **ADOPTED**, in concurrence.

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

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The Committee on **JUDICIARY** on Bill "An Act to Streamline the Eviction Process" H.P. 262 L.D. 326

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-190)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-190)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-190) **READ** and **ADOPTED**, in concurrence.

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

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The Committee on **LABOR** on Bill "An Act to Establish the Administrative Operating Budget for the Maine State Retirement System for the Fiscal Year Ending June 30, 1998" (Emergency) H.P. 234 L.D. 298

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-176)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-176)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-176) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-176)**, in concurrence.

Under suspension of the Rules, ordered sent forthwith to the Engrossing Department.

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The Committee on **LABOR** on Bill "An Act to Permit Teachers to Transfer Retirement System Creditable Service Earned as a Teacher's Aide while Employed by a School and Covered by a Participating Local District" H.P. 750 L.D. 1027

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-177)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-177)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-177) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **MARINE RESOURCES** on Bill "An Act to Establish a 30-day Temporary Sea Urchin and Scallop Diving Tender License" H.P. 252 L.D. 316

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-192)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-192) AS AMENDED BY HOUSE AMENDMENT "A" (H-205)** thereto.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-192) **READ**.

House Amendment "A" (H-205) to Committee Amendment "A" (H-192) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-192) as Amended by House Amendment "A" (H-205) thereto, **ADOPTED**, in concurrence.

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

---

The Committee on **MARINE RESOURCES** on Bill "An Act Concerning the Importation of Marine Organisms That May Be Dangerous to Indigenous Marine Life or Its Environment" H.P. 501 L.D. 692

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-193)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-193)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-193) **READ** and **ADOPTED**, in concurrence.

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

---

The Committee on **MARINE RESOURCES** on Bill "An Act to Increase the Department of Marine Resources' Involvement in Dredge Permitting" H.P. 595 L.D. 786

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-194)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-194)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-194) **READ** and **ADOPTED**, in concurrence.

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

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The Committee on **UTILITIES AND ENERGY** on Bill "An Act to Increase the Debt Limit of the Waldoboro Utility District" H.P. 683 L.D. 935

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-178)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-178)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-178) **READ** and **ADOPTED**, in concurrence.

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

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#### Divided Report

The Majority of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act Concerning Submission of the Legislative Budget within the Unified Budget Document" H.P. 48 L.D. 73

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

MICHAUD of Penobscot  
CLEVELAND of Androscoggin  
BENNETT of Oxford

Representatives:

KERR of Old Orchard Beach  
TOWNSEND of Portland  
STEVENS of Orono  
BERRY of Livermore  
POULIN of Oakland  
KNEELAND of Easton  
LEMAIRE of Lewiston

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-189)**.

Signed:

Representatives:

WINSOR of Norway  
MARVIN of Cape Elizabeth  
OTT of York

Comes from the House, Bill and Accompanying Papers **RECOMMENDED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**.

Which Reports were **READ**.

Senator **CLEVELAND** of Androscoggin moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**.

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**Divided Report**

The Majority of the Committee on **MARINE RESOURCES** on Bill "An Act to Return Revenue from Lease Sites for Aquaculture to Municipalities" H.P. 334 L.D. 456

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

GOLDTHWAIT of Hancock  
PENDLETON of Cumberland  
MACKINNON of York

Representatives:

ETNIER of Harpswell  
PIEH of Bremen  
PINKHAM of Lamoine  
VOLENIK of Brooklin  
HONEY of Boothbay  
PINKHAM of Brunswick

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-195)**.

Signed:

Representatives:

GOODWIN of Pembroke  
BAGLEY of Machias

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Which Reports were **READ**.

On motion by Senator **GOLDTHWAIT** of Hancock, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

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**Divided Report**

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Make the Commissioner of Inland Fisheries and Wildlife an Elected Position" H.P. 698 L.D. 962

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

NUTTING of Androscoggin  
GOLDTHWAIT of Hancock  
LIBBY of York

Representatives:

FISK, JR. of Falmouth  
BAGLEY of Machias  
BUMPS of China  
KASPRZAK of Newport  
SANBORN of Alton  
DUTREMBLE of Biddeford

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-168)**.

Signed:

Representatives:

AHEARNE of Madawaska  
GERRY of Auburn  
GIERINGER, JR. of Portland  
LEMKE of Westbrook

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Which Reports were **READ**.

On motion by Senator **NUTTING** of Androscoggin, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

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**Divided Report**

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish 4-year Terms for Constitutional Officers H.P. 855 L.D. 1160

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-174)**.

Signed:

Senators:

NUTTING of Androscoggin  
GOLDTHWAIT of Hancock

Representatives:

AHEARNE of Madawaska  
BUMPS of China  
FISK, JR. of Falmouth  
BAGLEY of Machias  
GERRY of Auburn  
KASPRZAK of Newport  
GIERINGER, JR. of Portland  
SANBORN of Alton  
DUTREMBLE of Biddeford

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

Signed:

Senator:

LIBBY of York

Representative:

LEMKE of Westbrook

Comes from the House with the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Which Reports were **READ**.

Senator **NUTTING** of Androscoggin moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-174)** Report in **NON-CONCURRENCE**.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-174)** Report in **NON-CONCURRENCE**.

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Senate

**Ought to Pass As Amended**

Senator **FERGUSON, JR.** for the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Amend Department of Defense and Veterans' Affairs Laws" S.P. 351 L.D. 1170

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-114)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-114) **READ** and **ADOPTED**.

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

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Senator **GOLDTHWAIT** for the Committee on **STATE AND LOCAL GOVERNMENT** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Clarify the Process for Inclusion of a Competing Measure S.P. 269 L.D. 877

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-115)**.

Which Report was **READ**.

On motion by Senator **DAGGETT** of Kennebec, **TABLED** until Later in Today's Session, pending **ACCEPTANCE** of the **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-115)** Report.

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Senator **CAREY** for the Committee on **UTILITIES AND ENERGY** on Bill "An Act to Create the Oquossoc Standard Water District" (Emergency) S.P. 236 L.D. 805

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-112)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-112) **READ** and **ADOPTED**.

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

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Off Record Remarks

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**SECOND READERS**

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

**House As Amended**

Bill "An Act to Establish Maine as a Sponsor of the Women in Military Service for America Memorial in Arlington National Cemetery" H.P. 275 L.D. 339 (C "A" H-171)



Bill "An Act Pertaining to the Aquaculture Lease Law"  
H.P. 346 L.D. 468  
(C "A" H-167)

Bill "An Act to Create a Cemetery Permanent Care and Improvement Fund"  
H.P. 372 L.D. 517  
(C "A" H-120)

Bill "An Act to Increase the Availability and Reduce the Cost of Escorts for Over-limit Movements on the State's Roads" (Emergency)  
H.P. 380 L.D. 525  
(C "A" H-162)

Bill "An Act to Amend the Laws Regarding Confidentiality of Library Records"  
H.P. 529 L.D. 720  
(C "A" H-161)

Bill "An Act to Ensure the Availability of Expertise on Dam Safety"  
H.P. 591 L.D. 782  
(C "A" H-172)

Bill "An Act to Provide Services for Children in Need of Supervision"  
H.P. 596 L.D. 787  
(C "A" H-173)

Bill "An Act to Improve the Efficiency of the Department of Agriculture, Food and Rural Resources"  
H.P. 714 L.D. 978  
(C "A" H-160)

Bill "An Act to Require That the Attorney General Be an Attorney in Good Standing in Maine"  
H.P. 753 L.D. 1030  
(C "A" H-169)

Bill "An Act to Establish Practical Difficulty Standards for a Variance from the Dimensional Standards of a Municipal Zoning Ordinance"  
H.P. 786 L.D. 1074  
(C "A" H-175)

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

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**Senate**

Bill "An Act to Consider Cost-effectiveness When Providing Medicaid Coverage for Dental Services" S.P. 95 L.D. 374

Bill "An Act to Extend Certain Survivor Benefits to the Spouses of Firefighters and Law Enforcement Officers and Expand the Definition of Law Enforcement Officers" S.P. 120 L.D. 399

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

Sent down for concurrence.

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**Senate As Amended**

Bill "An Act to Require Certain Employees of Health Care Facilities to Wear Identification Badges" S.P. 288 L.D. 939  
(C "A" S-89)

Bill "An Act to Implement Electronic Monitoring for Compliance with the Motor Vehicle Financial Responsibility Laws by 1999 and Make Other Changes in Those Laws"

S.P. 305 L.D. 1013  
(C "A" S-110)

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

Sent down for concurrence.

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**ENACTORS**

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

An Act to Give an Antlerless Deer Permit to a Person Who Kills 5 or More Coyotes S.P. 63 L.D. 182  
(C "A" S-65)

Comes from the House, Bill and Accompanying Papers **INDEFINITELY POSTPONED**.

On motion by Senator **RAND** of Cumberland, **TABLED** until Later in Today's Session, pending **ENACTMENT** in **NON-CONCURRENCE**.

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

**PAPERS FROM THE HOUSE**

**Non-concurrent Matter**

HOUSE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act to Ban Partial Birth Abortions" H.P. 390 L.D. 535

Report "A" - **Ought Not to Pass** (7 members)

Report "B" - **Ought to Pass as Amended by Committee Amendment "A" (H-163)** (3 members)

Report "C" - **Ought to Pass as Amended by Committee Amendment "B" (H-164)** (3 members)

In House, April 14, 1997, Report "C", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-164)** **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-164)**.

In Senate, April 15, 1997, Report "A", **OUGHT NOT TO PASS, READ** and **ACCEPTED** in **NON-CONCURRENCE**.

Comes from the House, that Body **ADHERED**.

Senator **PINGREE** of Knox moved the Senate **ADHERE**.

At the request of Senator **MURRAY** of Penobscot a Division was had. 18 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **PINGREE** of Knox to **ADHERE, PREVAILED**.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for 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 Later (4/2/97) Assigned matter:

HOUSE REPORTS - from the Committee on **TAXATION** on Resolve, to Reimburse a Lumber Company in Connection with Sales Tax Paid by the Company. H.P. 316 L.D. 438

Majority - **Ought Not to Pass** (11 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-118)** (2 members)

Tabled - April 2, 1997, by Senator **PINGREE** of Knox.

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence

(In House, April 1, 1997, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, April 2, 1997, Reports **READ**.)

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

Senator **KILKELLY:** Thank you Mr. President, men and women of the Senate. I would urge you to vote against the majority Ought Not to Pass report so that we could go on and accept the minority Ought to Pass report. This is a very unique situation that has occurred in my district in which a lumber company was paying their sales tax and was audited by the Department and found when they went through the audit process they were told that they owed \$66 in back sales tax which they paid. This is a family company that's been in this one family for three generations and at the time, shortly after that audit occurred, there was a change in the ownership structure where it went from being two brothers to a father and son. When the father and son took over, one of the things they did was to computerize the business and make other changes. They discovered, in the course of that process, that they had in fact, after their computerization went on line, then they discovered that the computerization process had caused them to be double

paying the sales tax and, I apologize, the audit happened after the computerization. They went back to the State and asked if they could have another state audit, which did occur, and it was determined that for several years they, in fact, had been paying double state sales tax and that the state audit had not picked that up. So, they had paid in an additional \$66 only to discover that they had, in fact, overpaid tens of thousands of dollars. As is current law, the State went back and said for the three years, the immediate three years preceding, that they would be reimbursed, and they were. What this bill asks is to be able to go back to the beginning of that overpayment and reimburse them for the expenses that they incurred during that time.

The argument that we made before the Taxation Committee is the fact that the audit did occur and gave them a sense of comfort in terms of the amount of tax they paid being appropriate when, in fact, it wasn't. It was obviously quite inappropriate. There was concern on the part of the Department that if we were to do this, it would be precedent setting and that we only go back three years and that was the way it needed to stay. And the question was asked, "Well, how many times do you have an audit that occurs and then an error is discovered afterwards?" And it was determined to be a very small number. So, I would suggest that this is not, in fact, all that precedent setting. In the time that I've been here we've, at least on one other occasion, provided additional reimbursement when someone has overpaid on their taxes. So, I would suggest that this is an effort to assist a small business person, a small business company that is very, very important in the northern part of Lincoln County, and would urge you to defeat the pending motion so that we can go on to accept the other motion. Thank you.

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

Senator **RUHLIN:** Thank you Mr. President and honorable Senators of Maine. I'd like to just discuss with you a moment why the Taxation Committee gave this particular piece of legislation an overwhelming Ought Not to Pass report, bipartisan overwhelming, to point out. This perennial bill, seems as though it's perennial, it's certainly not the first time around for this bill, it comes in here quite often, is an attempt to take your hard earned tax dollars and spend them on a mistake that a private business made. Pure and simple, that's what this bill does. It takes \$46,000 of our tax money. Somebody made a mistake on the computer software. That's regrettable, but it was their mistake. If they want to recover their funds, the court systems exist for that type of recovery, not the legislature. That software did indicate that they were paying the sales tax twice. The State did go in an audit and the State audited on the figures it was given by the business owner. A state audit does not provide advice in programming on your software programs. It acts on the figures that are the result of that program. So, the State Bureau of Taxation, acting within its authority, did the audit, found no mistakes in those figures on taking those figures and putting them onto the balance sheet. The mistake was in the program in providing those figures. That was an error made by private industry and as I've already said, their recovery is obvious. We have a court system for that, for them to make their recovery. Do not, please, take our tax money and use it to cover or reward somebody for a mistake that they made in their own private business. I hope you'll go along with the overwhelming majority report of Ought Not to Pass. Thank you.

The Chair ordered a Division. 20 Senators having voted in the affirmative and 5 Senators having voted in the negative, the motion by Senator **PINGREE** of Knox to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

The Chair laid before the Senate the following Tabled and Later (4/2/97) Assigned matter:

Resolve, Establishing a Task Force to Examine the Desirability of a Model Municipal Building Code

H.P. 775 L.D. 1052  
(C "A" H-91)

Tabled - April 2, 1997, by Senator **PINGREE** of Knox.

Pending - **FINAL PASSAGE** in **NON-CONCURRENCE**

(In Senate, March 27, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-91)**, in concurrence.)

(In House, April 1, 1997, **FAILED FINAL PASSAGE**.)

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

On further motion by same Senator, **TABLED** until Later in Today's Session, pending **FINAL PASSAGE** in **NON-CONCURRENCE**. (Roll Call Ordered)

The Chair laid before the Senate the following Tabled and Later (4/7/97) Assigned matter:

Bill "An Act to Ensure Responsible Coordination of Medical Care under Managed Care" H.P. 401 L.D. 546

Tabled - April 7, 1997, by Senator **LAFOUNTAIN** of York.

Pending - **PASSAGE TO BE ENGROSSED**, in concurrence

(In House, March 11, 1997, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

(In Senate, April 7, 1997, **READ A SECOND TIME**.)

On motion by Senator **LAFOUNTAIN** of York Senate Amendment "A" (S-113) **READ** and **ADOPTED**.

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

Senator **LAFOUNTAIN:** Thank you Mr. President, ladies and gentlemen of the Senate. If you've been following the Senate calendar, you'll see that this item has been hanging around for quite a while, the reason being is, this was a 10 to 3 Ought to Pass committee report. The bill deals with prohibiting managed

care entities from terminating providers without cause. The committee felt, after it did come out of committee, that it would still continue to work on it and several members were affected by it, such as Managed Care Entities and the Maine Medical Association. Together, with members of the minority and majority report continue to work on the issue and I'm presenting the amendment today which spells out a procedure for termination. Thank you.

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

Sent down for concurrence.

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later (4/7/97) Assigned matter:

Bill "An Act to Clarify Liability Coverage" S.P. 233 L.D. 802

Tabled - April 7, 1997, by Senator **PINGREE** of Knox.

Pending - **PASSAGE TO BE ENGROSSED**

(In Senate, April 7, 1997 **READ A SECOND TIME**.)

On motion by Senator **PARADIS** of Aroostook Senate Amendment "A" (S-117) **READ** and **ADOPTED**.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Paradis.

Senator **PARADIS:** Thank you Mr. President, men and women of the Senate. This too, has been banging around here for a number of days. This amendment provides equivalent protection under the Maine Tort Claims Act to business entities that contract for the Department of Mental Health, Mental Retardation and Substance Abuse Services for any psychiatric physician services. It's a department bill that was born out of the negotiations that the department had to hire a company to bring in a group of psychiatrists to Augusta Mental Health. They are on board and I hear we have some top notch people. This bill will have savings in the next round. This was negotiated with the company. The department said that they would bring this issue forth to treat the present doctors like we treated the other ones. Thank you.

Which was **PASSED TO BE ENGROSSED, As Amended**.

Sent down for concurrence.

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later (4/9/97) Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Restore State Funding for Mediation Services Provided by the Maine Labor Relations Board"

H.P. 294 L.D. 358

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-150)** (8 members)

Minority - **Ought Not to Pass** (5 members)

Tabled - April 9, 1997, by Senator **RAND** of Cumberland.

Pending - motion by Senator **CATHCART** of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence

(In House, April 8, 1997, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-150).**)

(In Senate, April 9, 1997, Reports **READ.**)

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

Senator **MILLS** of Somerset requested a Division.

**THE PRESIDENT:** The Senator has the floor.

Senator **MILLS:** Thank you Mr. President. Mr. President, in the Labor Committee we divided over the issue raised by this bill. I need to give you just a little bit of background behind it so that you'll understand what we're talking about. I think we've covered it in caucus, to some extent. The Maine Labor Relations Board provides a service to public entities like school districts, municipalities, county governments and the like, so that when there is a labor dispute of some kind, typically a contract dispute, which reaches a stage where the negotiating parties are unable to resolve the matter for themselves. If they wish to invoke mediation proceedings, they can file papers with the Maine Labor Relations Board and a neutral mediator drawn from a panel of very capable people. A neutral mediator will be appointed to that dispute and will take charge of conducting negotiations, supervising negotiations and determining whether some accommodation can be made between the parties. The fees that are charged for these services are fairly small. They're on the order of \$50 or \$100, I think, for a half day and they're paid, at this point in time, evenly divided by the two parties, so that it's only the parties who fail to agree on their own who must pick up any of the cost of this system. The bill that's before you would propose that we, as a state, out of the General Fund, pay for the first three days of these mediations proceedings so that the parties who are in dispute with each other might have access to the services for free and only after the third day would they begin to divide the cost, as is presently the case for the entire fee. My own sense of the issue and the reason that I'm opposed to the proposal, and I might add that the bill that's before you, that proposes to pay these expenses out of the General Fund, represents the way the law was back in the 1980's. And this is one of the small ways in which our budget difficulties in 1991

resulted in a change in early practice. In other words, the current system was introduced in 1991, I believe, in order to save money for the state. But I might also suggest that there was a good reason for it in policy. I think that it's important to leave the disputing parties to paying their own fees right from the outset for two or three good reasons. One is that it encourages people to dissolve their disputes on their own, that says, we have a place to which they can repair. We have a system in place for them to go to. The state administers this system at some expense to the General Fund but the cost of the actual mediator, the time that he spends or she spends traveling to the site and working with the parties should, in justice, be paid by the two parties who are not able to resolve their own dispute for themselves. By leaving the cost of this proceeding with the parties who are in dispute, it serves the beneficent public purpose of encouraging these parties, these same parties, to resolve their dispute without seeking access to this form that is made available through the Maine Labor Relations Board. I don't see that it serves any really good purpose to have us pick up the cost for the first three days of these proceedings. It means, in a sense, in a small way, rewarding people who are not able to resolve their own disagreements, and it's imposing a cost on the General Fund, a small cost. The fiscal note on this bill is not very large, but nevertheless, a \$20,000 or \$30,000 annual cost to the General Fund that, in truth, ought to be paid by those parties who are actually making use of the service. Through the General Fund, by having an administrator who runs this program, we are, in fact, subsidizing this process already and it seems to me that the efforts that we extend now are more than adequate and quite sufficient to fulfill the public policy that lies behind providing a labor relations law of this kind. Thank you.

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

Senator **CATHCART:** Thank you Mr. President, men and women of the Senate. I rise to ask you to support the majority Ought to Pass as amended motion. This is a small matter, really. The state paid for the cost of these paneled mediators from municipalities for the first three days until 1991 and most of these municipal labor disputes are resolved in two to three days. In 1991 there became such a backlog of the cases that the amount appropriated in the budget was not covering it and so, there were long delays. That is why the state made the decision to put the cost to the municipality and the bargaining unit, and the state bowed out of it. I just see this as a small expense to the state. It's a way of the state paying it's bills, a way of the state helping out the really small towns. Yes, it's true, for a city the amount of money for two or three days of mediation is a pittance in their total budget, but for some of our small towns who are struggling with the high cost of education and other expenses, I think, it would be doing a favor for them and they would appreciate it.

The other argument that the proponents gave is that if the parties know that they're not going to have to pay anything for the first three days, that just encourages them to settle their disputes quickly, at no cost to themselves. So, I would appreciate it if you would support the Ought to Pass report. 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. I was the alternate neutral member of the Maine Labor Relations Board in 1991 when we decided to forward this legislation and I thought, and so did the members of the Maine Labor Relations Board, unanimously thought, that it was a really good idea, and the reason for that is because there was a backlog. You might ask yourself the question, "Why was there a backlog of cases?" And the answer always came down to, "Well, it's free. You can go to mediation." What is discouraging anybody from settling their dispute before it rises to the level of mediation? Nothing. So, we got together with the executive director, we got together with the other members of the Maine Labor Relations Board. We all agreed that it would be a good idea if the parties split the cost and it really served us well. If you look at the amount of cases now, and as you've heard in prior testimony, the reason the backlog is gone, I believe, is partly due to the fact that we have now decided to split the cost. It's a deterrent. I've sat in those cases before and I can tell you, when the cost rises for the service, it doesn't matter if it's mediation or if it's in front of the Labor Relations Board, nobody wants their cases to drag on and on because there is a cost to them. You also might ask yourself the question, "Why did the cases that rose to the level of mediation tend to take care of themselves in two to three days, before we had this law, before 1991?" The reason is because the two parties knew that they were going to have to start picking up the cost after the three days and you could see the two sides would work really hard to make sure that we came to some kind of agreement. So, the idea behind the current law is to try to have the parties come together sooner and whatever it takes to do that, I think, it's incumbent upon us to make sure that we help that process along. I hope that you will not support this bill. I think it's a nice gesture to pay the first three days but I don't think it's accomplishing anything to do that. So, I'm hoping that you will vote against the pending motion. Thank you very much.

On motion by Senator **LIBBY** of York, 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: CATHCART, CLEVELAND,  
DAGGETT, JENKINS, KILKELLY,  
LAFOUNTAIN, LONGLEY, MURRAY,  
PARADIS, PENDLETON, PINGREE, RAND,  
TREAT, THE PRESIDENT - MARK W.  
LAWRENCE

**NAYS:** Senators: ABROMSON, AMERO, BENNETT,  
BUTLAND, CAREY, CASSIDY, FERGUSON,  
GOLDTHWAIT, HARRIMAN, KIEFFER, LIBBY,  
MACKINNON, MICHAUD, MILLS, MITCHELL,  
NUTTING, RUHLIN, SMALL

**ABSENT:** Senators: BENOIT, HALL, O'GARA

Senator **HARRIMAN** of Cumberland requested and received leave of the Senate to change his vote from YEA to NAY.

14 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 3 Senators being absent, the motion by Senator **CATHCART** of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-150)** Report, in concurrence, **FAILED**.

The Minority **OUGHT NOT TO PASS** Report **ACCEPTED** in **NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (4/9/97) Assigned matter:

SENATE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Clarify the Reporting Responsibility of Lobbyists" S.P. 104 L.D. 383

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass** (6 members)

Tabled - April 9, 1997, by Senator **RAND** of Cumberland.

Pending - motion by Senator **CAREY** of Kennebec to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report

(In Senate, April 8, 1997, Reports **READ**.)

On motion by Senator **PINGREE** of Knox, **TABLED** Unassigned, pending motion by Senator **CAREY** of Kennebec to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

The Chair laid before the Senate the following Tabled and Later (4/10/97) Assigned matter:

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Increase the Number of High-stakes Beano Games" H.P. 426 L.D. 576

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-146)** (11 members)

Minority - **Ought Not to Pass** (2 members)

Tabled - April 10, 1997, by Senator **RAND** of Cumberland.

Pending - motion by Senator **DAGGETT** of Kennebec to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence (Roll Call Requested)

(In House, April 9, 1997, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-146)**.)

(In Senate, April 10, 1997, Reports **READ**.)

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

Senator **BENNETT:** Thank you Mr. President, fellow members of the Senate. I rise because, not to belabor this issue which has got some debate already, I will be voting in opposition to the motion of Ought to Pass. There's no question that if this bill passes that it will increase the financial feasibility of the proposed high stakes beano operation in Oxford County, slated for Albany Township. Albany Township is a small unorganized town which resides right next to the town of Norway and several communities that I represent. The sentiment within the town of Albany, which is, in fact, represented by the senior Senator from Oxford County, Senator Ferguson, is dramatically opposed to the high stakes beano operation and, I think it's fair to say that there's overwhelming opposition in the towns surrounding Albany as well, to this proposal. I will be voting in opposition because of the interest of the people in my area that wish not to see our economy turn to this sort of solution for our economic problems. There's a lot of activity in my towns, in my community, to find new ways of moving away from traditional industries that are struggling, to new forms of value added opportunities which will create wealth and opportunities for the people of western Maine. I do not believe that high stakes beano represents all of that promise. I think that we can do better. We will do better. For that reason, I'll be voting no. I encourage you to do the same. Thank you.

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

Senator **DAGGETT:** Thank you Mr. President, men and women of the Senate. I would just like to remind you that the bill in front of us addresses the number of weekends and the number of days per weekend that high stakes beano can be held. The location, the sites where high stakes beano can occur, is not addressed in this legislation. While I understand that that may be a concern to some members, and certainly to some citizens, that is really not the issue in front of us today. We have had high stakes beano running for some time by the Penobscots. Currently, the Pasamaquoddy tribe does not run high stakes, although they do have permission and could, under current legislation. The Pasamaquoddy tribe would like to begin running high stakes and were certainly involved in this. But it is not a change in state policy. It increases the number of days or weekends. In fact, today, I believe, the Penobscot nation is not running as many weekends as they have authorization to. I would also like to remind you that there have never been, to my knowledge, any complaints or problems surrounding the operation of the high stakes game. It is very well regulated. There are regular reports that come into the Department of Public Safety and to my knowledge, there have not been problems. Earlier, on a previous day, there was a discussion of concerns about the relationship of high stakes to the smaller beanos, that are the charitable local beanos and that, in fact, was a concern when high stakes was initially put in place, but it never materialized and it's my understanding and my recollection of, in prior years, that when discussions of high stakes beano have arisen that the smaller local beanos in the area have not had any objection because they indeed did not see any encroachment on

their games. So, I would urge you to support the motion. It does not change locations. It's not a change in policy. It's simply an expansion of the number of days. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Washington, Senator Cassidy.

Senator **CASSIDY:** Thank you Mr. President, men and women of the Senate. Just to continue a little bit with the good Senator from Kennebec, Senator Daggett. Obviously I'm quite familiar with the operation of high stakes beano in the sense that I have two reservations, the Pasamaquoddy tribe is in my district and also, as was mentioned earlier, the current high stakes beano now is happening through the Penobscot tribe. At one time, two or three years ago and for a short while, the Pasamaquoddy tribe did run those in the Princeton area, in the Indian Township. I spoke with the representative from the Pasamaquoddy tribe, and their intent is to reinstate those again in our area. This particular bill, as was mentioned, isn't doing anything except extending the amount of time that they can do this throughout the year. And I guess, my understanding is, it would include like Friday nights and Saturdays. They felt that the folks traveling would perhaps, you know, rather have Friday and Saturday rather than Saturday and Sunday and would probably spend the day Sunday traveling back. And as you know, our district and our community, in fact, really, that the reservations are located on the Canadian border and we do have some folks come down from New Brunswick and probably even Nova Scotia to participate in that high stakes beano. So, I think it's good for those folks. I've never been real encouraged about adding video gambling or any of these kinds of things to our state, but we approved this high stakes beano years ago. I think it's a good resource for the tribe to bring some funds into the community. You know, I saw a bumper sticker one day just recently, it said, "Keep Gram and Gramps off the streets. Support Beano." I guess it gives them something to do in the evening. I also think it doesn't really interfere with the smaller beano. A lot of the organizations run for charity, American Legions and so on and so forth. So, I'm going to be supporting this and I ask you to support this motion, and allow them to continue doing this and perhaps, in a more successful way. Thank you.

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

Senator **MILLS:** Thank you Mr. President, men and women of the Senate. There is a task force that was created last year at this time when we had considerable debate over gaming issues, gambling issues, in the last legislature. The task force is secured by a senior member of the Penobscot County Bar, various interests groups who served on the task force. My understanding is that they have wound up their work and a report, and a series of recommendations is forthcoming from the task force very shortly. I would say that, at the very least, before we take any steps to enlarge or expand upon gambling activity in this state, that we all get a chance to review the work of the task force and read what they have to say to us about gambling on a broad front. You may recall from the national news that there's an effort nationally, to be studying the impact of gambling on people's lives across the board. There is a great deal of revision thinking going on around the country about whether gambling, in various

forms, is appropriate, what social purpose it serves and who gets hurt and who gets helped by it, and why.

I'll just end by reminding you that, I believe, this is a change in policy. The weekend activity that we've so far licensed is only for Saturdays and Sundays. This would extend it to Friday, Saturdays and Sundays and, of course, would increase the number of weekends from 27 to 40. I have to presume that this is a threshold expansion that would enable the proponents of this legislation to create some sort of building edifice recreational enterprise and I understand that if there is such a thing, it will occur in Albany Township and that this is the kind of thing that would permit some out of state national contractor to come in and not only build the facility for the tribes, but also extract a large percentage of the profits that will presumably go out of state. I think this is detrimental to horse racing in this state. I think it is detrimental to the small charitable beano operations that are in every small town in our state. I think it is detrimental to the people in Oxford County. We've heard from towns that have joined Albany Township that they, please, do not want us to pass this legislation. They don't want to have this kind of facility adjoining them. This whole subject deserves a lot more thorough examination and I think it would be very worthwhile to hold your fire until you read the report from the task force on gambling and, for the time being, defeat the measure that is now before you. 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 as well, to urge you to vote against this motion. I think to suggest that this isn't a serious change in policy is really a gross understatement. This is a major change in what has been allowed for gambling in high stakes beano in this state within this area. I think that to suggest that there's no plans to expand, that there's no interest in making a larger facility, is to ignore what has been public information for some time now. That those who are interested in this are interested in a major new operation. They're interested in building in Albany Township, or at least that's a prime location for them to do that, and they're interested in building a major facility there, to attract new customers, new gamblers to that area. It seems to me to be clear as well, that increasing it from 27 to 40 does read a threshold area and to increase from two days to three days is a major difference in the number of times that they can hold high stakes beano operations, to get the kind of return on the investment that they'd be looking for, for that kind of major investment. So, I would suggest to you that this isn't just a small casual change in a few days, and it has some major implications for this state. It's also one more step forward into bringing gambling into this state in big time. I'm also concerned because I think what is the proposed location is not a long distance from my area in Lewiston, Auburn. It's a very short and comfortable drive, and by having high stakes beano in that location would detract from many of the charitable religious beano operations that go on for legitimate purposes, for leisure and entertainment, and to raise some funds for real, needed charitable purposes within our community. And the degree to which more and more of these funds and the individuals who go for the entertainment, once or twice a week in our community, are attracted to go to high stakes beanos because the stakes are higher. We're going to lose opportunities of our own charitable organizations and religious

institutions within our district. Some even suggest that this is a legitimate economic development tool. I suggest to you that it is not. It simply takes money from someone's pocket in one area and recirculates it in a nonproductive, nonproducing, destructive way in another area. It intends to create a false sense of economy. When what happens individuals tend to become more and more addictive, and more and more accessible to gambling when they're spending their grocery money. Unfortunately, many more and more people tend to do things like that. I would strongly urge you not to support this bill because I think it's a major change in our policy, that we ought to do it in a more comprehensive way. We ought to wait for the report to come before us so we have all of the information and we can deal on that issue on how we want to proceed with gambling in this state at that time. Thank you.

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

Senator **CATHCART:** Thank you Mr. President, members of the Senate. I rise to support the Ought to Pass motion. The Penobscot high stakes beano is in my district and I can attest it's being a very clean and locally run operation. I have many friends in the greater Bangor area, including some former legislators who go there regularly for the games and think it's a great kind of entertainment. And there have been absolutely no complaints about this beano game that I've ever heard in my district from anyone and I see no reason that we should not allow the Pasamaquoddy tribe to run the same kind of gambling operation. Thank you Mr. President.

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

Senator **DAGGETT:** Thank you Mr. President, men and women of the Senate. There have been a variety of issues and barriers raised to this particular piece of legislation, and I would like to address briefly some of the issues regarding gambling, and concerns about gambling. I share many of the concerns that have been raised today about gambling. I certainly do not view gambling as economic development and that has been put forward in a variety of arenas, which I have had a chance to listen to testimony on. However, today we have high-stakes beano, and have had it for some time. This is not a change today. For over ten years, maybe more, but at least that, fifteen or so, we have had high-stakes beano, so this is simply not a change. Generally there are buses that come from out of state or other places, bringing people to the area for the high-stakes beano and if they are there for more than one day, or there for the weekend, it does add an additional day. I would agree with that. Today the Pasamaquoddy tribe could have high-stakes beano, this is not a change. Yes, it does add in several weekends, additional weekends. Today, if it were allowed in the Albany location, it could happen there, may not be happening, but this bill does not change the location. It doesn't add any locations. The whole issue of location is a different issue. It is a different issue. Previously, I mentioned one of the differences and one of the reasons why the Indians were approved for high-stakes beano is that they do not have the opportunity to levy a property tax in the same way that other municipalities have that opportunity. They too, have seen declining revenues. The federal government has pulled back from their support and they

are looking to be able to increase their revenues by adding additional weekends in. So, there is a difference here in regard to the high-stakes beano, why it was allowed in the first place, and why it continues today as opposed to some of the other kinds of gambling activities which have been mentioned. I think that it is beside the point as to the type of arrangement that the Indian tribes or nations would have regarding the running of their high-stakes beano and how they wish to do that, and it concerns me that is a type of paternalism that we've seen in other areas as well. But certainly, the way they run the high-stakes, whether they wish to have a firm from in state or out of state, or some other place run their high-stakes, I view as a decision that they should be making. I hope that you will consider these points when you vote on this. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Washington, Senator Cassidy.

Senator **CASSIDY:** Thank you Mr. President, men and women of the Senate. Just to follow up on a couple of items, too. A lot of you folks have been in business and know friends who are in business, and we all try to support business and every business, no matter what it may be, sort of has a break even point, and I think one intent of this bill is so that they can offer enough of these weekends so that they can be viable and, obviously, they have to keep and maintain a building for this sort of thing. I'm sure that's part of the decision. The other thing is, talking with Representative Moore, I don't think the intent is to run it all 40 weekends or whatever, but it gives them that option. The other thing that I think is very important to point out, under the current law and the way the process works right now, it's my understanding that during those operations there are law enforcement people there, although it's just folks like you and I enjoying themselves. The other thing, there are folks there from the tax department who, at the end of the evening, after the tally's all done, the money's collected, it's given to the state. We generate some revenue from there. It's a very professionally and tightly operated game. I mean, it's not like we're running a casino in the state, or whatever. There's no way they could run this thing seven nights a week and make it work because of the limited number of people that come on a regular basis, you know, there's sort of a gap in between to come and participate. I think this is the situation, as was mentioned. We're not talking about additional sites. We're not talking about new locations. All those kinds of things would have to come before this Body and the other Body to make any of those kinds of changes. This is simply taking the current law that we have, that we've given permission to do and to give the tribes an opportunity to generate some revenue which they very well need, and I hope you support this and I appreciate your time. 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'd like to take the opportunity to clarify a couple of points. Certainly it's correct that the Penobscot tribe could currently have high-stakes beano, and they do. They could expand their operation currently. There's nothing that could stop them from doing that as long as they go by the provisions of the requirement. They could do that. So, I suggest to you that it's not just incidental that this bill has been introduced because

maybe they might want to go to 40 or maybe they might not. It just gives them some flexibility. There is some plan and strategy behind this concept, and that is, it's clearly indicated that major new operations have to be economic. In the analyses of it, I'm sure says that under the current arrangement of 27 weeks it's likely to be economic for the investment and the return on that investment an individual wants, otherwise they'd do it now. There's nothing that would stop them from doing it. They're free from expanding their operation, going to any location that they own as a tribe. And I suggest to you that they don't do it, certainly not to the scale that they want to do it, because it's not economic and I suggest that they use every one of those weekends and every one of those days that they can use to make it economic. So, what this suggests is that there is a new policy here and the new policy is they want to expand gambling into different parts of the state. That's the other option, so that a new source of gamblers can be more readily accessible. That's a major policy change. I suggest to you that this bill does have large implications, that the intentions are to expand gambling throughout the state. That those efforts are going to be detrimental, not only to the state, but are going to be far less beneficial to the tribe than people suspect. They've had opportunities for gambling and they don't tend to be long term strong economic growth centers for any community. They produce no product. They add no value. They simply take a dollar out of your pocket and put it into someone else's pocket because of the roll of the dice or the roll of the beano ball happens not to fall on your number. That's what it does. For those people who want to do it for a recreational activity, that's fine. But, in the guise of just changing a couple of weekends, to change a major policy about gambling in this state, I think, is inappropriate and I hope you vote against the motion. Thank you.

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

Senator **BENNETT:** Thank you Mr. President. I beg your indulgence and I will be brief. I, too, would like to just respond briefly to a couple of points raised. Senator Cassidy of Washington County is absolutely right. The idea here is to be able to run these operations like a business. Senator Cleveland has addressed this issue. It is exactly on point and that is why they need the financial feasibility for this operation, proposed in Albany, that this bill would allow. It is right on the point that this bill has everything to do with the proposal for Albany Township. Now, I beg to differ with my friend from Washington County, Senator Cassidy, when he says that any proposal to build such an operation will necessarily have to come back before this Body or the other Body. It will not necessarily have to. As a matter of fact I think members of the tribes would suggest differently. This is an opportunity. Senator Daggett of Kennebec has suggested undo paternalism if we vote against this measure. Six years ago the 115th Legislature, as part of a larger bill, allowed the lands in Albany Township which the tribe purchased to go into trust lands, which gave them a greater level of ownership, if you will, over those lands to do with as they pleased. If I had known then that the plan was to build the high-stakes beano operation, or perhaps even a casino in that point, if I'd had the opportunity I would have voted against moving those lands to trust. I hope it is not considered paternalistic for the legislature to do its job. It's clear that we have public policy here at stake that we have to



consider. We did in the 115th Legislature. It didn't get proper consideration then. Let's make sure that it gets proper consideration now and let's do our job, review the public policy concerns and vote against this measure. Thank you.

On motion by 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 Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

**ROLL CALL**

YEAS: Senators: CAREY, CASSIDY, CATHCART,  
DAGGETT, JENKINS, KILKELLY,  
MACKINNON, MICHAUD, MITCHELL,  
MURRAY, NUTTING, PARADIS, PENDLETON,  
PINGREE, RAND, RUHLIN, TREAT, THE  
PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT,  
BUTLAND, CLEVELAND, FERGUSON,  
GOLDTHWAIT, HARRIMAN, KIEFFER,  
LAFOUNTAIN, LIBBY, LONGLEY, MILLS

ABSENT: Senators: BENOIT, HALL, O'GARA, SMALL

18 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 4 Senators being absent, the motion by Senator **DAGGETT** of Kennebec to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-146) **READ** and **ADOPTED**, in concurrence.

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

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

**PAPERS FROM THE HOUSE**

**Non-concurrent Matter**

Bill "An Act to Designate Square Dancing as the Official Folk Dance of Maine"  
H.P. 111 L.D. 135  
(C "A" H-30)

In House, April 1, 1997, **PASSED TO BE ENACTED**.

In Senate, April 2, 1997, **PASSED TO BE ENACTED**, in concurrence.

**RECALLED** from the Governor's Desk pursuant to Joint Order (H.P. 1268), in concurrence.

Comes from the House, Bill and Accompanying Papers **RECOMMENDED** to the Committee on **STATE AND LOCAL GOVERNMENT** in **NON-CONCURRENCE**.

On motion by Senator **NUTTING** of Androscoggin, the Senate **RECEDED** and **CONCURRED**.

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Off Record Remarks

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On motion by Senator **RAND** of Cumberland, **ADJOURNED**, until Thursday, April 17, 1997, at 9:30 in the morning.