

MAINE STATE LEGISLATURE

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State of Maine

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

In Senate Chamber
Thursday
May 29, 1997

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

Prayer by Reverend Robert Welch of the United Baptist Church in East Corinth.

REVEREND ROBERT WELCH: Thank you President, and thank you for this opportunity to be with you this morning. One comment, my wife and I are new to Maine. We arrived here in February from Alaska and I was always told that Maine weather was strange. We talked with our children in Alaska the last of April, first part of May, and all the trees were out, and it was 70 degrees and it wasn't that here. But we appreciate the opportunity of being with you this morning.

Let's bow in prayer.

Gracious, almighty God, we come into Your presence this morning acknowledging our need of Your guidance, Your wisdom, Your understanding. And God almighty, it humbles us as we look at the great and awesome responsibilities that You place before us and especially upon this body of men and women in conducting and discerning the different aspects of the business of this state and the impact of those decisions upon the present and also future generations. May each of us learn as individuals and acknowledge our own insufficiencies in understanding the many facets of government, and yet also understanding that You, almighty God, are all-sufficient, all-knowing and ever-present. And knowing this, may we make decisions not in the light of simply what we desire now, but in eternity and the final judgment that we know we'll all stand before. And as with the prophets of old within the Scripture, Lord, we today also confess our own sins and the sin of this nation. We acknowledge also that we are often indifferent to Your voice, to Your concern for us, and to selfishness instead of simply acknowledging the impact upon the decisions we make that have eternal values. Lord, as we serve this community and this state, Lord, in acknowledging our responsibility to the families and to marriage and to government and to the things that You've established for the good of all of us, Lord, may we submit to Your final and all-inclusive authority. We acknowledge also this morning that You are, and You have the right as Creator God and we praise You for that and for the truth that You've given to us. We think of the Psalmist that says, "Righteousness exalteth a nation, but sin is a reproach to any people." Grant us this day the spirit of wisdom and revelation, understanding of You and the eyes of our understanding may be enlightened and that, God, we may know the hope that You have given to us. The riches of Your glory, the exceeding greatness of Your power. Now, God, unto You and You alone that is able to keep us and to strengthen us to present us faultless before Your eternal presence, to You the only wise God and our savior, may there be glory, majesty, dominion and power both now and forever. In Your eternal, everlasting name, we do pray this morning. Amen.

Reading of the Journal of Wednesday, May 28, 1997.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Make the Workers' Compensation System More Equitable"
S.P. 491 L.D. 1523
(C "B" S-302)

In Senate, May 22, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-302).**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-302) AS AMENDED BY HOUSE AMENDMENT "E" (H-719)** thereto, in **NON-CONCURRENCE.**

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

COMMUNICATIONS

The Following Communication: S.C. 328

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON APPROPRIATIONS AND FINANCIAL
AFFAIRS**

May 27, 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 Appropriations and Financial Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1268 An Act to Authorize a General Fund Bond Issue in the Amount of \$12,000,000 to Support the Construction of the Gulf of Maine Aquarium and Marine Research Facility

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

Sincerely,

S/Sen. Michael H. Michaud
Senate Chair

S/Rep. George J. Kerr
House Chair

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

The Following Communication: S.C. 329

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

May 27, 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. 811 An Act to Integrate Sources of Support for Children with Special Needs

We have also notified the sponsor and cosponsors of the 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. 330

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

May 27, 1997

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

Dear President Lawrence and Speaker Mitchell:

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

L.D. 1569 An Act to Reform the Corporate Income Tax and Create Employment Incentives

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

Sincerely,

S/Sen. Richard P. Ruhlin
Senate Chair

S/Rep. Verdi L. Tripp
House Chair

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

The Following Communication: S.C. 331

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

May 27, 1997

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

Dear President Lawrence and Speaker Mitchell:

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

L.D. 1875 An Act to Permit the Public Utilities Commission to Grant an Emergency Rate Increase

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

Sincerely,

S/Sen. Richard J. Carey
Senate Chair

S/Rep. Kyle W. Jones
House Chair

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

The Following Communication: S.C. 346

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

May 28, 1997

Joy J. O'Brien
Secretary of the Senate
118th Legislature
Augusta, ME 04333

HELD BILL

Senator **PINGREE** of Knox moved the Senate **RECONSIDER** whereby it **RECEDED** and **CONCURRED** on:

Bill "An Act to Amend the Membership of the Maine Land Use Regulation Commission" S.P. 347 L.D. 1166 (C "A" S-244)

(In Senate, May 22, 1997, Bill and Accompanying Papers **INDEFINITELY POSTPONED.**)

(In House, May 28, 1997, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-244)** in **NON-CONCURRENCE.**)

(In Senate, May 28, 1997, **RECEDED** and **CONCURRED.**)

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **RECONSIDER** whereby the Senate **RECEDED** and **CONCURRED.**

Dear Secretary O'Brien,

Please be advised I have appointed the following Conferees to the Committee of Conference on the disagreeing action between the two branches of the Legislature on Bill "An Act to Promote Wildlife Rehabilitation Centers" (H.P. 551) (L.D. 742):

Senator Ruhlin Penobscot
Senator Daggett of Kennebec
Senator Bennett of Oxford.

Sincerely,

S/Mark W. Lawrence
President of the Senate

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

HELD BILL

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator **RUHLIN** for the Committee on **TAXATION** on Bill "An Act to Authorize Transfer of Property Taxes to the Passamaquoddy Tribe" S.P. 588 L.D. 1758

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-344).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (S-344) **READ** and **ADOPTED.**

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

Senator **PINGREE** of Knox moved the Senate **RECONSIDER** whereby it **ACCEPTED** the Majority **OUGHT NOT TO PASS** Report, in concurrence, on:

Bill "An Act to Increase the Excise Tax on Cigarettes to Support a Tobacco Prevention and Control Program and Reduce the Individual Income Tax Burden" H.P. 1279 L.D. 1816

(In House, May 28, 1997, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED.**)

(In Senate, May 28, 1997, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in concurrence.)

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **RECONSIDER** whereby the Majority **OUGHT NOT TO PASS** Report was **ACCEPTED**, in concurrence.

SECOND READERS

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

House As Amended

Bill "An Act to Open a Discount State Liquor Store in Calais" H.P. 277 L.D. 341 (C "A" H-46; H "A" H-122; H "B" H-636)

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

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act Regarding the Economic Security and Safety of Harness Horsepersons" H.P. 1239 L.D. 1756 (H "A" H-683)

In Senate, May 27, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-683)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-683) AS AMENDED BY HOUSE AMENDMENT "A" (H-706)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **PINGREE** of Knox, the Senate **RECEDED** and **CONCURRED**.

Non-concurrent Matter

Bill "An Act to Exempt Contract Dance Instructors from the Unemployment Tax" (Emergency) H.P. 24 L.D. 49 (H "A" H-525)

In Senate, May 21, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-525)**, in concurrence.

In House, May 23, 1997, **PASSED TO BE ENACTED**.

In Senate, May 28, 1997, Bill and Accompanying Papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

Comes from the House, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.

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

House Papers

Bill "An Act to Fund the Collective Bargaining Agreements and Benefits for Certain Employees Excepted from Collective Bargaining for the Judicial Branch" (Emergency) H.P. 1343 L.D. 1894

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

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

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act Regarding Health and the Prevention of Smoking" H.P. 1338 L.D. 1887

Reported that the same **Ought to Pass**, pursuant to Joint Order (H.P. 1322).

Signed:

Senators:

PARADIS of Aroostook
LONGLEY of Waldo

Representatives:

MITCHELL of Portland
BROOKS of Winterport
FULLER of Manchester
KANE of Saco
PIEH of Bremen
QUINT of Portland

The Minority of the same Committee on the same subject on Bill "An Act to Decrease Smoking Among Maine Youth, Young Adults and Adults" H.P. 1339 L.D. 1888

Reported that the same **Ought to Pass**, pursuant to Joint Order (H.P. 1322)

Signed:

Senator:

MITCHELL of Penobscot

Representatives:

LOVETT of Scarborough
JOYNER of Hollis
BRAGDON of Bangor
SNOWE-MELLO of Poland

Comes from the House with the Majority **OUGHT TO PASS** (H.P. 1338) (L.D. 1887) Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "C" (H-723)**.

Which Reports were **READ**.

Senator **PARADIS** of Aroostook moved the Senate **ACCEPT** the Majority **OUGHT TO PASS** (H.P. 1338) (L.D. 1887) Report, in 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** (H.P. 1338) (L.D. 1887) Report, in concurrence.

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

ENACTORS

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

An Act to Regulate Recreational Vehicle Manufacturers,
Distributors and Dealers H.P. 880 L.D. 1197
(C "A" H-625)

An Act to Amend the Uniform Commercial Code as it Relates
to Letters of Credit and Investment Securities S.P. 430 L.D. 1378
(C "A" S-309)

An Act to Regulate Viatical Companies H.P. 1115 L.D. 1558
(C "A" H-656)

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

An Act to Ask Voters in a Referendum Whether One Travel
Lane in Each Direction Should be Added to the Maine Turnpike,
Paid for by Turnpike Tolls, to Reduce Accidents and Congestion
S.P. 663 L.D. 1883

On motion by Senator **BENNETT** of Oxford, placed on the
SPECIAL APPROPRIATIONS TABLE, pending **ENACTMENT**.

Emergency

An Act to Promote Higher Education H.P. 1223 L.D. 1735
(C "A" H-542)

On motion by Senator **BENNETT** of Oxford, placed on the
SPECIAL APPROPRIATIONS TABLE, pending **ENACTMENT**.

Emergency

An Act to Create a Universal Bank Charter H.P. 1319 L.D. 1869
(C "A" H-523; S "A"
S-284)

This being an Emergency Measure and having received the
affirmative vote of 24 Members of the Senate, with no Senators
having voted in the negative, and 24 being two-thirds of the entire
elected Membership of the Senate, was **PASSED TO BE
ENACTED** and having been signed by the President, was
presented by the Secretary to the Governor for his approval.

Resolve

Resolve, Regarding Legislative Review of Chapter 131: Rules
for Learning Results, a Major Substantive Rule of the Department
of Education H.P. 1093 L.D. 1536
(C "A" H-569)

Which was **FINALLY PASSED** and having been signed by
the President, was presented by the Secretary to the Governor
for his approval.

Resolve, to Establish a Committee to Review the Asbestos
Hazard Emergency Response Act of 1986

H.P. 1030 L.D. 1447
(C "A" H-544)

On motion by Senator **BENNETT** of Oxford, placed on the
SPECIAL APPROPRIATIONS TABLE, pending **FINAL
PASSAGE**.

Mandate

An Act Concerning Time-out Areas H.P. 1099 L.D. 1542
(H "A" H-612 to C "A"
H-541)

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

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

COMMUNICATIONS

The Following Communication: S.C. 344

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA, MAINE 04333**

May 28, 1997

Honorable Joy J. O'Brien
Secretary of the Senate
118th Legislature
Augusta, Maine 04333

Dear Madam Secretary:

The House today voted to Insist and Join in a Committee of
Conference on Bill "An Act to Amend the Maine Bail Code" (S.P.
509) (L.D. 1571)

The Speaker appointed the following members of the House
to the Committee:

Representative **POVICH** of Ellsworth
Representative **FRECHETTE** of Biddeford
Representative **McALEVEY** of Waterboro

Sincerely,

S/Joseph W. Mayo
Clerk of the House

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

The Following Communication: S.C. 345

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

May 28, 1997

Joy J. O'Brien
Secretary of the Senate
118th Legislature
Augusta, ME 04333

Dear Secretary O'Brien,

Please be advised I have appointed the following Conferees to the Committee of Conference on the disagreeing action between the two branches of the Legislature on Bill "An Act to Amend the Maine Bail Code" (S.P. 509) (L.D. 1571):

Senator Murray of Penobscot
Senator Mitchell of Penobscot
Senator O'Gara of Cumberland.

Sincerely,

S/Mark W. Lawrence
President of the Senate

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

ORDERS OF THE DAY

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

Bill "An Act to Make the Workers' Compensation System More Equitable"
S.P. 491 L.D. 1523
(C "B" S-302)

Tabled - May 29, 1997, by Senator **PINGREE** of Knox.

Pending - **FURTHER CONSIDERATION**

(In Senate, May 22, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-302).**)

(In House, May 27, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-302) AS AMENDED BY HOUSE AMENDMENT "E" (H-719)** thereto, in **NON-CONCURRENCE.**)

On motion by Senator **PINGREE** of Knox, the Senate **RECEDED** and **CONCURRED**.

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

Off Record Remarks

Senate at Ease

Senate called to order by the President.

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

PAPERS FROM THE HOUSE

Joint Resolution

The following Joint Resolution: H.P. 1152

JOINT RESOLUTION COMMEMORATING THE CITY OF AUGUSTA ON ITS BICENTENNIAL

WHEREAS, the "head of tide" on the river known as the Kennebec was early occupied by natives who spoke an Abenaki tongue and was, in 1607, visited by English settlers from the Popham Colony, and representatives from the Plymouth Colony seeking "a fit trading place" in 1628 chose the east shore as their "house at Kennebec," later called Cushnoc Trading Post; and

WHEREAS, the French Jesuit, Father Gabriel Dreuillettes met with Pilgrim traders and in 1646 established a mission among the Abenaki people and in the mid-17th century proprietors of Plymouth Company began efforts to settle the Kennebec region by erecting, in 1754, a fort at Cushnoc, which was named Fort Western and placed under the command of James Howard; and

WHEREAS, Fort Western, a National Historic Landmark, continued its existence, first as a fort, then as a trading store and a residence and, after a period of decline, underwent a series of restorations and is, this year, celebrating its 75th year as a museum; and

WHEREAS, Augusta, then known as the "Fort" settlement, was a part of the town incorporated as Hallowell in 1771 and, on February 8, 1796, the Massachusetts Legislature passed an act to build the Kennebec Bridge at the "Fort" location; and

WHEREAS, on February 20, 1797, an act was passed by the Massachusetts Legislature to divide the Town of Hallowell incorporating the northerly part into a town that was named Harrington and, on June 9, 1797, the name of the Town of Harrington was changed to Augusta by order of the Massachusetts Legislature; and

WHEREAS, in 1799, Augusta became the shire town of the new County of Kennebec, in 1827 was chosen as the capital and in 1831 it became the seat of government of the State of Maine and in 1849 was incorporated as a city; and

WHEREAS, Augusta has been, through the years, a trading post, an inland shipbuilding and shipping port, a center for publishing, manufacturing, education and governmental activity and has evolved into a community of varied neighborhoods and diverse occupational and cultural identities connected by civic

pride just as the east and west shores were joined by that 1797 Kennebec Bridge; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Eighteenth Legislature, now assembled in this First Special Session, take this opportunity to honor the city and good citizens of Augusta on the very special occasion of the bicentennial celebration of the City of Augusta and extend our congratulations and best wishes; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the City of Augusta on behalf of the people of the State of Maine.

Comes from the House **READ** and **ADOPTED**.

Which was **READ** and **ADOPTED**, in concurrence.

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

Senator **DAGGETT:** Thank you Mr. President and members of the Senate. It's with great pleasure and pride that I speak to you today as the Senator from the city of Augusta and a resident of the great city of Augusta. While I was down listening to members of the other body speak, regarding our city's birthday and our bicentennial, and they spoke about how they were thinking of great words and things to say on this special occasion in this special year for us, I recalled about my own thoughts and trying to think of special comments and special things to say. And I thought about when I first was elected to the Legislature and had an opportunity to hear the Legislators here speak with such pride of their communities. It was wonderful to hear that, and it also made me think of what pride I have of being a resident of the city of Augusta. Frequently, when Legislators travel somewhere else, somewhere in the state, people will ask where you are from, what town do you represent, and I say "Augusta," and they'll say, "No, no, I mean where are you from," and I say, "I do represent Augusta" and sometimes Augusta is not seen for the community that it is. It's seen as the state capital and this building and the seat of state government. But indeed, Augusta is a community and it is a wonderful community and it with great pride that I speak to you today.

I also thought about the things that Augusta has done and seen and many of us have seen and I also thought about what has happened in the Legislature and what the Legislature has done and seen. When the city of Augusta was established, it wasn't called Augusta, but there was no legislature here. But 100 years ago there was a legislature and I would just like to tell you a few of the issues that were before the legislature and that were enacted 100 years ago, just to give you an idea of how far we've come in 100 years.

There was legislation enacted "to compel a husband or father to support his wife or minor children if he was living apart from his family." For Senator Hall, I'd like to say that there was a bounty established on wildcats. In fact, Commissioners were granted permission to take game, moose, caribou, deer and birds. There was also a bounty on seals, Senator Hall, and amazingly enough, we were regulating the size of lobster that could be taken. We also were regulating political caucuses. We were regulating how the voters list should be given to those political committees, legislation that we worked on again this year in my Committee. And last but not least, one of the other items had to do with the manufacture and sale of cigarettes to minors. It was prohibited.

So on this 100th occasion of these laws and our 200th birthday, I hope that you will all join the city of Augusta in having a piece of our bicentennial cake, which is in the rotunda, and we wish Augusta the very best for the next 100 years.

Off Record Remarks

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act Regarding Health and the Prevention of Smoking" H.P. 1338 L.D. 1887

Majority - **Ought to Pass** (H.P. 1338) (L.D. 1887), pursuant to Joint Order (H.P. 1322) (8 members)

Minority - **Ought to Pass** on Bill "an Act to Decrease Smoking Among Maine Youth, Young Adults and Adults" (H.P. 1339) (L.D. 1888), pursuant to Joint Order (H.P. 1322) (5 members)

Tabled - May 29, 1997, by Senator **PARADIS** of Aroostook.

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS** (H.P. 1338) (L.D. 1887) Report, in concurrence

(In House, May 28, 1997, the Majority **OUGHT TO PASS** (H.P. 1338) (L.D. 1887) Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "C"** (H-723).)

(In Senate, May 29, 1997, Reports **READ**.)

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

Senator **PARADIS:** Thank you Mr. President, men and women of the Senate. I think it's absolutely appropriate and fitting to be doing this bill at this present moment. I have been absolutely impressed and moved by this celebration and I note with pride the ancestry that has founded this beautiful area. Indeed, as I travel the state like I must on a regular basis, I'm always taken aback by the order that is here, the cleanliness, our people being well taken care of and healthy. I am a strong proponent for this piece of legislation because we will be continuing something that was started in this body long before we even came around, to ensure the public health and the public good. We often see on people's brochures how we brag about things that we were instrumental in passing into law and when I look at some of those items, they don't seem to me like they were very important now in the 1997 light. But then when you think back, I'm sure, for those individuals, when they passed those laws it was an act of courage, an act of doing what was right in the face of a lot of adversity. This is the right thing to be doing. We invest a lot in our children and over the years we have been

incredibly pro-active in passing legislation that is serving our children very, very well. What's the sense of investing so much in the children's education and investing in the infrastructure that we support this state if we don't look at this problem, that we lead with this problem in the whole country. It's really an embarrassment when there's a little something we can do here that will make things change. When we look back on this day, in a few years, we will know that the legislation made a big difference in the lives of the men and women of this state. Thank you very much.

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

Senator **MITCHELL:** Thank you Mr. President. Good morning, women and men of the Senate. I agree with all of the great things that our Senator Paradis from Aroostook has said, but right now I'd like to talk about the bill and I'd like to encourage you to vote against the current motion and vote for the Minority report so that we can get on with addressing what is the problem we're trying to talk about this morning, and I would like to share with you what was discussed in our work session on our problem. First of all, we identified the fact that we needed to have a tax on cigarettes and we were caught up in, well, all right, we need medical programs, for health for children. We need a program for our older citizens for prescription drugs for the elderly under Medicaid. Now I ask the question what are we here for? Let's not lose sight of our main problem, what we're all concerned about is reducing youth smoking. That is our primary focus. We need to look at how are we going to reduce smoking of our youth in the State of Maine? Let's identify the problem which we have, and let's identify what the solution should be and how we're going to get there, and how we're going to make this happen. So what we need to do is have a good educational program to address that. We need to have a media campaign. We need to have effective media, which we saw much of and good examples in our hearing from people that brought in what they thought would be effective for a campaign on education. We looked at other items that would be a good education program. We talked about what we needed for medical situations to address the needs of patches, medical needs for reduction of youth in smoking. We also addressed more enforcement of existing laws. Many complaints have been given about the fact that our police are not monitoring, to the extent they should, our schools. We needed to have more people on board to have effective involvement of the community in reducing the youth smoking. So then we talked about, well, how are we going to make that happen? But this was overshadowed by two other programs that had nothing to do with youth smoking. They're very critical, but I would say to you, folks, if you look at this bill, do we need to add 28 people and the 6 people in the DHS to address what this bill is asking for? And if it's effective for educating and we do reduce smoking and the sales go down, what's going to pay for it? Where are we going to derive the money to pay for these programs? These programs should be addressed separately in the department. Bills should be put through to effectively address the fact that we need to provide medical care for children. Yes, we do need to provide prescription drugs for the elderly, but that's not part of the problem we should be dealing with today, which is the reduction of youth smoking. Don't clutter this bill up and make it look like a Christmas tree. Santa's bag is empty. Where are we going to get the money, when the sales go down, to pay for this? Instead, let's put into effect an effective educational program to actually

reduce youth smoking. And how are we going to pay for it? We have an ASSIST Program that's federally funded now, a grant that we have, money that comes into DHS that we could take some of that. We can establish a fund where people from grants or contributors want to call in, on the bottom of an advertisement on our media, enticing people to call or send money in to this fund to reduce smoking. Get the people involved in our state in this program. How you make things happen is when you involve people. Raising a tax is not involving people, it's creating animosity. It's creating a problem with what we're going to have with the borders, with people coming over and smuggling. That's a fact, it's not fiction. It's happened in other areas. Let's address this problem with a way we can afford it. Let's put a check-off on the tax return. Let's establish a fund so people can contribute to this fund and let's use the existing moneys from a grant we're getting from ASSIST and from the General Fund as a start-up. Then we can feel as though we're accomplishing something and as the sales go down we don't have to be worried about where we're going to fund this.

Now an amendment was put on my 1888, our Minority bill, that will also address an incentive for reduction of income tax, so that any small business who provides healthcare to address the children's healthcare would receive a tax credit. Now that was put on as an amendment by Representative Donnelly. Let's look at what we really want to address, and I encourage you, let's not make this a three-fold situation with trying to fund things that the budget already has funded for DHS. We did a wonderful job this year. The Committee worked very diligently and have addressed many problems and we've come up with a good budget where we can increase our response to the needs of our people in this state. But let's handle one thing at a time and on this bill, the focus is supposed to be reduce youth smoking. Please join me in voting against this bill and let's look at what can we afford, what's going to give people an incentive to participate in and how are we really going to make it happen and reduce youth smoking in Maine? Thank you very much.

Off Record Remarks

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Longley.

Senator **LONGLEY:** Thank you Mr. President, statesmen, stateswomen, politicians and others of us in this Chamber. We have a wonderful opportunity today to address a huge cost that we pay in a variety of ways. One of the costs has been put in front of us all year. Our children smoke more, Maine kids smoke more, than kids anywhere else in this country. We've got a wonderful high school graduation rate and kids are picking up cigarettes. They have huge, wonderful opportunities, but they stick a suicide stick into their mouth and they die much sooner. Every single year 9,000 more Maine kids are sticking that suicide stick into their mouth, 3,000 of whom we will pay for at the workplace and then at the hospital because they're going to die of cancer, that's the fact. We've got a problem. We've got costs. Allegedly, for every time an employer hires a smoker, over the course of that person's average stay at that business, guess how much it costs that employer? Nine thousand dollars more per smoking worker than the non-smoking worker. Thirty-seven cents, folks, prices those teenagers out of the market. The polling data shows somewhere between a quarter and 50 cents,

fewer kids, who are the most vulnerable to price fluctuations around cigarettes, buy cigarettes. And yes, you can say, "Oh, but they buy expensive sneakers and jeans." Some of them do. A lot of Maine kids don't. We know that. We've seen these kids at the general store, we don't see that they're reeking in dough. We see that they're reeking in smoke and we have something to do with it. We price them out with the 37 cent tax. What do we do with that money? Well, we do programming to educate that Joe Camel is not cool. We help those people who are already hooked with patches and smoking cessation programs. We take that money, increase the price, couple it with a program and boom, we're starting to address the problem and fewer kids start smoking and more adults have opportunities to stop smoking. And furthermore, we have a problem with kids' health. What do we do? We help fund kids' health insurance. And for me, one of the nicest pieces about this job, to be perfectly honest, is to have the opportunity of healthcare coverage. It's a wonderful piece of my salary. The salary isn't much, but the healthcare piece is a much appreciated aspect that many of us, many Mainers, more and more Mainers go without. Here is our opportunity to say, "We have a problem. Let's price the kids out of the market. Let's put the money towards programming and kids' healthcare." Simple. It would be nice if we could have people call in with money, that might raise us \$50,000 if we have a coordinator that has not been, that there's been no offer of anyone coming forward to dedicate a year to that. It'd be nice if we had a tax check-off. Tax check-offs could bring in about \$60,000. That could cover anywhere from 60 to 100 kids. You know, that's a step. With this healthcare, we can cover many more children and these children are not getting to the doctor except in the emergency room, and guess who pays for that? We all pay. Preventive care in children, it's a cheap investment. Kids cost less. We give them an opportunity of getting good habits as young, we keep them healthy, make sure they can see the blackboard and hear the teacher, and guess what? That's learning results. And when a high school kid graduates, they will have caught more because they've been healthier as they've sat and stood and done whatever they have done in their educational process. It's a money saver. If you do the math, we pay for it at the workplace if people start smoking. We pay for it at the hospital, mostly in the emergency room, pardon me, we pay for it in the hospital, not necessarily in the emergency room with smokers. But we've seen those people. We know how much healthcare costs are when someone has lung cancer. We pay through our teeth while these people stick these sticks in their mouths. So, my colleague has a quote on his desk in this form and it says, "A politician thinks of the next election. A statesman (and a stateswoman, I'll add) think of the next generation." We're trying to think of the next generation with this proposal before you, and I'll really appreciate it if you think of the next generation when you cast your vote. Thank you for listening.

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

THE PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Hall.

Senator **HALL:** Thank you Mr. President, ladies and gentlemen. It sounds good but it won't work. If you've read any of the literature that was put on your desk a week ago, telling you about Massachusetts and other states, Michigan, Ohio that have

raised their cigarette taxes substantially, but their rates of teenage smoking continued to rise. It doesn't work. It might make you feel good and you might think it's going to, but it's going to do nothing but create more problems. If you've got a teenager that's smoking and you don't give them money, as a parent, or if they don't have a job to earn it, they'll steal. That's a proven fact. Nicotine is a drug the same as marijuana, cocaine. These people will steal to feed their habit. Price means nothing to them whether it's heroin or whatever for a narcotic. And if you stop and think, you know that. Raising the price of cigarettes is not going to stop the smoking or prevent it. We have speed limits in this state, but yet our teenagers, every week, are killing themselves on the highway. Why? Well, I'll tell you why, because they do not fear death. They don't even think about death. It's always something that happens to the other guy. So because one out of three smokers that take up the habit are going to die of a tobacco-related illness doesn't affect them. It's 30, 40, 50 years down the road. Now you can say, "Well, there's the Senator again. He doesn't want to raise taxes, taxes are too high." Well, you're right. I don't care what the tax is, and just because you sugar-coat it to start a couple of new programs or advance a couple of programs doesn't cut it with me. One thing that we've been trying to do, ever since I can remember, is to eliminate one class of people in the State of Maine. Well, I'm going to tell you, folks, think about your history lessons years ago when you were in school. We've always had three classes of people. We are always going to have. Of course, if you continue along the road you're going, you may eliminate one but I can guarantee you, it's not the one that you think you're going to eliminate. Think about that. I'm going to urge you to vote against this pending motion because it will do absolutely no good.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Pingree.

Senator **PINGREE:** Thank you Mr. President, women and men of the Senate. I just wanted to speak briefly about a couple of the programs that are in this bill that I think are particularly good and something that we should feel very proud of supporting today. You know, people often talk about the assistance in this bill that would go to children who need healthcare and senior citizens who need prescription drugs as new programs and, I have to say, they are not new programs. They are just continuations of things that we already do. With healthcare insurance for children, we're just using this as an opportunity to cover more of the uninsured children in the State of Maine under this bill. We'll cover about 20,000 of the 36,000 children who are currently uninsured by expanding the Medicaid program. Now Medicaid for children is something we already do. This just raises the eligibility level, covers families whose parents are working, many of whom in jobs that do not provide healthcare insurance, many of whom are in families who are unable to access healthcare or healthcare insurance. The best thing about that we know is that it covers preventive care. It means less trips to the emergency room. More kids get healthcare treatment up front when they need it, and we know that saves us money and ensures good health for kids which is one of the most important things that we can do when we're thinking about our future generations.

Secondly, this offers senior citizens an expansion of our prescription drug card program. I think this is something that we can be very proud of that we now do in the State of Maine and expanding this is tremendously important to many of our senior

citizens. I don't know about the rest of you, but I can guess that when you go door-to-door and meet senior citizens, at AARP meetings, or bean suppers, or just different places in your district and you get talking, probably the first thing or something they'll tell you about is the high cost of prescription drugs. I know for every senior citizen, it's always a struggle deciding whether to pay your oil bill, pay for food or pay for your prescription drugs and for many of them these are life-threatening illnesses and they have to pay the cost of those prescriptions which can often be hundreds of dollars a month. This bill would cover senior citizens up to 150% of poverty and allow us to cover 2,300 elderly citizens with a much broader range of drugs than are now covered under the prescription drug card. Currently, you can get drugs for diabetes, healthcare, high blood pressure, arthritis, or chronic lung ailments. About five different illnesses are currently covered under this card. With this bill, we'd be able to accept another \$15 million in Medicaid and expand the program to cover all drugs that are currently covered under Medicaid. That would be a tremendous benefit to people who are up to 150% of poverty which means you take home no more than \$987 a month. That covers a lot of people in the State of Maine who are now struggling, and I think it's something we could be tremendously proud of if we're passing this bill and letting people know that this is a service they haven't been able to have, they haven't been able to access in the past and a struggle they will no longer have to have.

We've talked a little bit about the prevention program and I think having a good prevention and control program, one which will be effective, again, is a proven success in reducing youth smoking. And that coupled with raising the price of cigarettes is something that we can do to make a substantial change in the numbers you heard about earlier which are really a tragedy for our state and something that we all should set as a priority to reduce. So, I want to join with the good Senator from Waldo and the good Senator from Aroostook in suggesting that you pass this bill and be able to bring back to your constituents something, I think, that we can all be very proud of for this legislative session.

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

Senator **MITCHELL:** Thank you Mr. President. I do agree with, exactly, what Senator Pingree has talked to us about on the programs for healthcare for children and prescription drugs. However, we are talking about creating a tax to pay for this healthcare when we could be addressing these two particular items on an individual basis within our Committee with the Department. We're talking about building staff in that Department. The cost factor is \$40 million on this bill. We definitely need to address those two situations, but the time to do that is a separate entity and it should be given to the Department as a challenge on how they are going to make that challenge come to fruition within the existing budget and with funding at another time. We already have the groundwork to build on providing healthcare for children. You're right, it is not a new program. We need to build on what we have and we do not need to leap into it with an unknown return on how we're going to pay for it. Again, we want this program to be successful. We want to reduce the sale of cigarettes and if you do that, the money is not going to be there to pay for it. And also, if we think that smuggling isn't going to happen, we're wrong. Three people from the House of Representatives came to me this morning and said they were inundated with calls after their last night's session from

people representing towns on the border stating that this was definitely going to be a problem for them. It's going to be a security problem. It's going to create a higher crime level and this has happened in other areas in other states and it's going to happen to Maine. In response to the good Senator from Waldo, I would say to you, the check-off may not bring that much money. The establishment of a fund may not, but it's involving the people and our constituents in this state in a worthwhile program to focus on reduction of youth smoking. And what is happening is if that doesn't happen, the total cost on that bill is \$3 million compared to \$40 million to accomplish, focused on reduced youth smoking. So again, I encourage you, look at the price tag, what you want to accomplish for what you're investing, and what the results are going to be and do we have accountability and a plan that actually can come to fruition. And please join me in voting against this motion so we can move on with a program that will be effective. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Benoit.

Senator **BENOIT:** Thank you Mr. President, may it please the Senate. I will be opposing the pending motion because I believe that this report that's before us, this tobacco tax situation, is a smoke screen. Senator Hall, the Senator from Piscataquis, made a point a moment ago in saying that it won't work. He's right. He gave some reasons of his own why he feels it won't work and I would like to point out to you, that yes, it's true, unfortunately we lead the nation in tobacco consumption by our youth. It's a tragedy.

We also lead in another area that's a tragedy. Recently statistics came out in this state showing the high consumption of marijuana by our youth and yet, it's illegal. Being illegal doesn't matter. It hasn't worked, a purpose of taking care of that problem. What's 37 cents more expected to do? It won't work. I join Senator Hall's assessment. Unfortunately, it won't work. You know what bothers me here is that we already have a tax on tobacco in Maine and we could take some of that money and educate our youth against smoking, but we haven't. We haven't done it. We could have, and now we want to. But in order to do it, we're going to jack up the price of cigarettes 37 cents. But you'll notice there are some expansions of programs here and that's where we see the smoke screen in my view. This really is an increase in tax to expand on these programs. Why not come right out front and admit it? Such a small amount of this money is going to go towards education of our youth in this area. And you know, I don't have any good proof or evidence that there's going to be enough money to carry on these programs that are being expanded. That bothers me and my constituents. And where, as Senator Hall points out, there has been an increase in the tobacco tax in other jurisdictions, in some cases the tobacco companies make an adjustment in the price of their product to swallow up some of the tax and you don't have the financial impact that's desired in the legislation. And I will give you the argument, I'm not advancing it for my reasons why I'm voting, the fact that business will be sent to New Hampshire. We already send most of our liquor business there, and some of my constituents on the border are saying, "Well, let's send our tobacco business there then by this legislation." I'm just concerned that here we are talking about a tax in a state where we're already in the top 10, sometimes 6th, 7th or 8th place, depending on statistics you look at, on tax burden against our citizens. There are some people in this state house who will not

be satisfied, I guess, afflicted with the malady of taxitis, until we're number one in tax burden on our citizens. And I know what you're saying, "It's a sin tax. I can vote for a sin tax." Well, you go ahead and do it. I won't, because I think the tax burden, no matter what the tax is on, is high enough. When we're 35th in the nation on income and in the top 10 in tax burden, there's something wrong. And I'm not going to add to the problem by increasing the tax on tobacco to see us moving closer to number 1.

So, if illegality doesn't do it on marijuana, 37 cents more on tobacco isn't going to work either. Thank you, Mr. President.

Off Record Remarks

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

Senator **PARADIS:** Thank you Mr. President, men and women of the chamber. We have to hit this issue hard, hit it up front and not go back one inch from where we are at this point. It cannot be a half-hearted effort or else we will fail. I have been so proud in the last few days in seeing all the work that has popped out of our Committee, and many times I like to go to different committees and visit on issues that I'm very interested in. This year I was absolutely stuck in the Health and Human Services Committee. Why? Because we wanted to bring to you something that you would be proud of to put your name on when the time came. I think you should be proud to put your name on this issue, on this legislation. It's 37 cents. Let's not get carried away here, in terms of the amount of money we're dealing with. We were blessed with having a huge contingency of people from all over the state, from all over the country that blessed our desks with piles of documentation dealing with the effectiveness of what we're dealing with, the issues that we were trying to find the best way possible to attack this major, major problem in this state. I am very conscientious about the fact that the Health and Human Services budget is 20-30% of this whole State of Maine budget. So when we're looking at ways to cut that down, one of the ways we can cut it down is through the off-sets. It happened this weekend again, I visited this gentleman in the hospital who is dying of cancer and we were talking about, he's a potato grower, and I said, "Potato growing, it's a hard business to be in." And he said, "Being sick is worse." Because he had just gotten the fact that it was terminal and after smoking for a few years, what had happened to him has happened to a lot of us. When I was in school, we were told it was not ladylike to smoke, period. There was no other admonition, there was no other piece, not one piece of information was given to us. My beautiful classmate women that had started smoking started dying at 50. Some of the men, they went until 52 and had other medical problems, but for the women, it seems to hit them harder and quicker and death comes faster. Certainly our legislators, at the time, had no clue how unprotected we were, that we were being allowed to make a decision with no information. We have the information and we want to get it out as soon as possible, and this will send the message that this is very important.

There are many borders in this state and most of them, a lot of them, border the Canadian border and for them, they saw a 60% decrease with their children starting to smoke because they raised it so high that it indeed discourages children. We have, as I said before, voluminous amounts of materials that look at every

issue every way, because I was not going to insult your intelligence and come here with half-baked ideas. I am absolutely convinced about the off-sets. We are paying for children's medical care through the emergency room. We can take care of a child for 50 bucks for a year. One quick earache, whatever, to an emergency room is a \$300 bill. So there's no doubt that we're spending the money. We're just trying to spend the money a little bit more appropriately and impact positively on our kids' lives. We have, to the credit of my Committee, spent the time that we needed on this. We will not be taking you down a path that we had not checked every possible avenue, where else we could have gone. We were presented the information from incredible sources. It's wonderful to be living in an age where we have access to so much great, great information that we're not taking stabs in the dark anymore, that we're going with proven technologies. We have been working at it. If you have a child and you're a smoker, you know that your children have been coming home from school and really nagging. One lady was telling me this weekend, she said, "I've lost more cigarettes. My child, literally, and her child is a senior in high school now so he knew what he was doing, tears them up. And she's seeing medical problems now and he's kind of saying, "Mom, I told you so." So, we have not been absolutely free of information or attempts. It has not worked obviously, because statistics tell us that. We are the highest smoking group and we have to look to the next generation and try to salvage the part of the generation that will be saved by this, because it is a full-court press and it has a lot of value, and I thank you for your kind attention.

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

Senator **HARRIMAN:** Thank you Mr. President, good morning men and women of the Senate. I want to take just a moment, if I could, and speak to you from a couple of perspectives. One, the perspective of a parent who has one teenager, and actually two, his birthday was yesterday, he's now 13, two teenagers and a 9 year old. And I'd like to take a moment and speak to you from the perspective of the political realities that we are faced with but literally hours left to go in this session. And lastly, from the perspective of someone who takes a lot of pride in making sure that I get into the neighborhoods and the businesses and the schools in my district.

I'm amazed, quite astonishingly, to tell you that there are a number of parents who condone their underage children smoking. Incredible to me that we would allow, we would see parents allow their children to ingest this illegal substance, but it's happening. And I'm surprised to learn that there's an enterprising young business budding up around the schools where somehow someone can buy a pack of cigarettes and they turn around and sell them to their classmates for \$1 a cigarette. Unbelievable to me, but it's happening. And so from the political perspective, as I have tried to understand the voluminous amounts of material that come across our desk, I have indeed become convinced that it's worth a try. It's worth the effort for the people who are advocating for the tax increase to give it a chance in hopes that it might work. And so, I was happy to support the bill that came before us to raise the tax, to create tax relief and it was overwhelmingly rejected. And the political reality is that it is the one bill to raise the cigarette tax to help teenagers learn not to smoke to create property tax relief that we've heard so much about that the Chief Executive Officer says he'll sign.

THE PRESIDENT: The Chair would caution the member on discussing any possible action by the Chief Executive.

Senator **HARRIMAN:** I apologize to the Senate, Mr. President. So, we have before us now a bill to raise the cigarette tax to build and expand social programs needing even more amounts of money as time goes on to properly fund. If we are successful, if the message that's being delivered with this bill is successful, that less people will smoke, we will see declining revenues for a program that will have increasing expenses which will build a larger structural gap in the state budget that we already know exists for the next legislature. And before we expand the Medicaid program, maybe we ought to try to find ways to do a better job of those programs that are already covered by Medicaid. Go speak to the parents of young children, in Piscataquis or Aroostook County, who need dental care under the Medicaid program, or children who need mental retardation services and many others. It seems to me, Mr. President, that we've created the illusion that if we simply raise the tax and build bigger centralized government in Augusta, to provide health insurance for children, that everything will turn out all right. But the political reality is that the tax hopefully, and I want to believe everybody who's lobbied me that this will dramatically curb teen smoking, will be successful. I hope that portion of it is successful. But in turn, to use that money to build a bigger government program, we're setting ourselves up for a failure. Thank you Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Hall.

Senator **HALL:** Thank you Mr. President. I wish to pose a question through the Chair to the Senator from Aroostook, Senator Paradis.

THE PRESIDENT: The Senator may pose his question.

Senator **HALL:** Thank you. My question is this. Under this particular L.D., how many new state jobs will this produce?

THE PRESIDENT: The Senator from Piscataquis, Senator Hall, poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Aroostook, Senator Paradis.

Senator **PARADIS:** Thank you Mr. President, men and women of the Senate. I'm very happy that that question was posed because, indeed, when the fiscal note came up we had this huge number of people that were listed as absolutely being necessary to administer this extension of this service. That number has been changed dramatically overnight, and I'll be more than happy to provide that for you.

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Longley.

Senator **LONGLEY:** Colleagues in the Senate, we can find fault, or we can vote today for solutions and to dignify the arguments against, I just would like to quickly run down a few of what's been said and address them.

In terms of the fact that there have been states where increased taxes have led to increased sales, that made no

difference, that's incorrect. That's not the full story. The full story is that the tobacco companies managed to decrease the price of their package of cigarettes more than the increase on the tax. Guess what, folks? That's why it didn't work.

In terms of will this stop kids from smoking? It will stop a substantial number, anywhere between, I think, 15% and 30%. We decrease the numbers of kids smoking as we increase the price. If we want to go to \$1 a pack, we increase the numbers of kids who will not start and/or will stop before they're addicted. So it won't stop kids from smoking. It won't stop adults from smoking. It will work though, because it will help. It will help decrease the number of people smoking. Those of you who received a copy of the recent Juvenile Justice report, I would like to quote a quote related to marijuana. "Basically, cigarettes is a gateway drug. Cigarette smoking is gateway behavior, a behavior that persists before other more dangerous behaviors. As was testified, the cigarette they sneak as a 10 year-old leads to the pack they smoke at 11 years old, and the beer they try at 12 and the shots they do at 13, the joint they try at 13 and a half, leading to all forms of chemical dependencies." It's a gateway and we all know that cigarettes is that first thing they will experiment with. It's gateway behavior.

In terms of declining revenues, that's an excellent point and the option is to do nothing or to do something. To find fault or to vote today on a solution. Maybe it is a partial solution. Those of us who care enough about offering healthcare for kids, guess who will continue to dig and to scrap and to try to find ways, if we have, when we have, when those declining revenues kick in, to find ways as we enter this managed care world and as we work with insurers? I'll raise my hand right now as one who is going to be dedicating my time to figuring out a way to try to find a way to continue to provide children healthcare. It's low-cost. It's helpful. It teaches them good habits this young and, with this cigarette tax, we teach them better health methods, too.

Lastly, in terms of, it's an economic development piece, folks, we talk about taxitis. I'd like to focus on the fact that when we are hiring healthy workers and we're building our economic base, because we have healthy workers taking less sick time, costing us less at the hospital or with our insurance premiums. We have ways to take advantage of opportunities. This is an opportunity. If you want to find fault, so be it. We have an opportunity today to vote for a tax that leads to healthcare, that helps solve some of our problems, and I'll appreciate your yes vote on the pending motion.

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

Senator **GOLDTHWAIT:** Thank you Mr. President, ladies and gentlemen of the Senate. I'm going to vote for this bill and I hope you do, too. It is a bill which has had a tremendous amount of discussion and so have a number of other related bills. The discussion is not focused so much on what we're trying to do in terms of raising the cost of cigarettes, as it is on what we do with that revenue. That has been a very legitimate discussion and there have been really good points raised on all sides, everywhere from, do you raise a tax to reduce a tax and is children's health the most pressing need and is this particular children's health program the most important one? I believe that if we maintain this principle of raising the cost of cigarettes, which has been demonstrated very clearly in a number of other states to work, to actually decrease youth smoking, that we will then have an opportunity to work further on some of the mechanics

about the rest of this program. But it is so important for children's health that we pass this increase in the tax that I am willing to take a step on faith that we can resolve some of the other issues about precisely where this revenue goes. It is logical to me to relate that revenue to prevention of smoking and to other children's health issues. Whether that happens in precisely the form laid out in this bill or not, frankly I don't care. The important thing for me is to make this advance in preventing youth smoking, to resolve some of those other differences which we will have an opportunity to do on a subsequent date and to go ahead with a program that will clearly benefit the young people of our state and I hope you support the pending motion.

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

Senator **KIEFFER:** Thank you Mr. President, ladies and gentlemen of the Senate. It's always interesting to see how we can take two separate issues and combine them and commingle them in an effort to try to make something that's very, very confusing out of something that's very simple. This bill deals primarily with two basic issues. One is a tax increase on cigarettes and the other, by the way, the tax increase on cigarettes should have, in my opinion, been dealt with by the Taxation Committee, and the health issue, which certainly is a Health and Human Services Committee issue. As far as the tax situation is concerned, I'd like to make my position clear on cigarettes. I will vote tomorrow or today or the day after tomorrow to totally ban the possession, the sale and the use of cigarettes in the State of Maine, but I don't believe that a tax increase does any good in prohibiting or slowing down smoking. Now I've heard over and over again that a tax increase of some 37 cents up to \$1 will reduce smoking by anywhere from 15% to 30%. But let's use 20% as an average. Now if a tax of \$1 will reduce smoking by 20%, why not go to \$2 and reduce it by 40%? Or, why don't we increase the tax by \$5 and totally eliminate smoking in the state? But we can't do that and the reason that we can't do that is because there's a magic number of 51% in reduced spending and our tax revenues start to fall off. And wouldn't that create pandemonium? What would we do with the programs that we have already established if we don't have the money to fund them because our program in stopping smoking has been so successful that we've eliminated smoking? What would we tax then to continue those programs? It's a proven fact we're certainly not going to reduce anything here in state government or cut it down.

From the other side of the issue, certainly we're all interested in children's health care. I don't think anyone will question that. I think there's a question of how we go about obtaining that and this similar program on child healthcare has been before us for the past four years since I've been here. I won't support a tax increase on cigarettes in this manner because I think it's a subterfuge. It is a tax increase. I don't believe it's going to do anything to retard or reduce smoking. The facts from the other states do not show that, and until I am shown something more specific than I have been given here in the past two months, I must vote against this. Thank you Mr. President.

Off Record Remarks

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

Senator **ABROMSON:** Thank you Mr. President, ladies and gentlemen of the Senate. As you may know, there is an organization called the National Taxpayers Union that asks members on both sides of the aisle to sign a no-tax pledge, a pledge that says they will never vote for tax, a new tax or a tax increase. I didn't sign that pledge. I will vote for a tax increase. I did vote for a tax increase just last night, a tax on cigarettes. However, that tax was to be used for education and control of tobacco products and was to be used to reduce other taxes. I hope I have the opportunity to vote for that again. I will not, however, be supporting the present bill as I believe with the good Senator from Aroostook that we are trying to mix apples and oranges with taking taxation, an item from Taxation and an item from Human Services and mixing them all up together. Thank you Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Benoit.

Senator **BENOIT:** Thank you Mr. President, may it please the Senate. Mr. President, just a few moments ago, Senator Hall, the Senator from Piscataquis, asked a question from anyone who might be able to answer and I thought it was a good question. How many new positions will be created by this legislation? Senator Paradis, the Senator from Aroostook, stood in response and said that if we wanted that information we could see her at another time. Frankly, I'd like the answer right out here in the open, and I could be helpful perhaps, to Senator Hall. I have heard from a reliable source, and I can be corrected on this because I am relying upon another source, that there will be 177 new positions created. Now, I don't know if that is the exact figure, but that's a figure that I've been given, the latest figure that I've been given. If it's so, here we go again with state bureaucracy midriff bulge that I call the love handles of state bureaucracy expanding again. Again a smoke screen, all done under the guise of a tax to turn young people away from smoking when we really know that this is a tax put on to expand programs, programs that ought to stand on their own two feet in a different arena. Senator Kieffer is absolutely right. We're taking a very simple situation and we're fudging it all up. Thank you Mr. President.

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

Senator **PARADIS:** Thank you Mr. President, men and women of the Senate. Death is never a simple situation, but to answer your question, we were very concerned when we received the fiscal note on this issue and we had a lot of questions about how numbers were arrived at and I have to confess I never heard 177, though, but you know we felt that whatever the numbers were, they felt like 177 to us. The number that we were dealing with was 40 state positions and the newest number is 24. Now, we have been able to get it down, and we really felt that those high numbers were put on for a purpose, that we weren't quite comfortable with that number and we didn't know why they had been popped up because none of our numbers were ever that high. So right now it's 24 state positions to do a lot of management and the work they do, we did go

through every piece of work that they need to do and I think it's holistically, again, it'll be very, very positive for the people of Maine.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Mitchell, who requests unanimous consent of the Senate to address the Senate for a third time. Is this the pleasure of the Senate? The Senator may proceed.

Senator **MITCHELL:** Thank you Mr. President. I would like to assist the good Senator from Aroostook in her figures on how we're going to increase this. House Amendment "C" came at it with 28 people, which 22 would be Income Maintenance Specialist positions and another 3 for Income Maintenance Unit Supervisor positions and 3 Human Service Aide 2 positions and related costs to be established on one particular entity. And then we have 5 clerks that are going to be Clerical Typist 2 positions and then we also have, in another position, an additional 2 Public Health Educator 3 positions which are also going to fall into that. So that does add up a little bit more than 25 and it is a reduction from the original. However, the cost, that's a part of the \$40 million that we're talking about, so you are adding a considerable number of force here. Thank you.

THE PRESIDENT: The Chair would advise the Senate that House Amendment "C" is not before the Senate at this point. The Chair recognizes the Senator from York, Senator MacKinnon.

Senator **MACKINNON:** Thank you Mr. President, men and women of the Senate. Today I'll be voting against this amendment. Do I vote against this amendment because I do not like kids? No. Do I think that we have to do something about smoking? Yes. How do we do that? Simply, we either ban it or we do not. We're going at this like we quit smoking. We're going at it like, well, I'll quit today. I'll do a little bit tomorrow or go. Either you do it or you don't. I can't support things that go halfway. We try to look at bills and we try to make the best judgment on the things that we can do for our constituents and our kids. If we're really going to address this issue, if we're going to help senior citizens buy drugs, if we're going to help children with insurance, I suggest we put them into the budget and make some decisions on those. To add programs or to increase programs that the revenues may go down and we have to address again is not, in my opinion, adequately addressing the situation. I'd much rather deal with it up front, vote on it and I would support it. Thank you.

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

Senator **HARRIMAN:** Thank you Mr. President. Good morning again, men and women of the Senate. I am somewhat confused. I'm hearing conflicting information about how many new positions this bill requires. And I want to inquire, Mr. President, that we are on L.D. 1887 as amended by House Amendment "C" under the filing number H-723?

THE PRESIDENT: That is incorrect. We are on the Majority report of the Committee which is Ought to Pass on Bill "An Act Regarding Health and the Prevention of Smoking." Should that be adopted, it would be properly before the Senate at that time,

to adopt House Amendment "C", but House Amendment "C" is not before the Senate at this time.

Senator **HARRIMAN:** Thank you Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Pingree.

Senator **PINGREE:** Thank you Mr. President. I know we've been discussing this for a long time. I just wanted to speak to a couple of issues that I'd heard raised and I don't think were addressed. At one point I heard that this bill costs \$40 million, that this would be \$40 million that would be spent here, and by my calculations and what I've read about it, it raises about \$30.8 million. Of that, only \$21.5 million is actually spent, \$9 million is not under this current plan that I've seen. And that allows for some room for declining revenues that people have spoken about what happens when the money goes down? I think we have to commend the work of the Health and Human Services Committee, who thoroughly looked at a lot of these issues, thought about what would happen in the future and I think was very fiscally responsible in doing this. I don't have the figures before me about staffing, and I know there have been some very high numbers raised. I sat through one session where the Health and Human Services Committee was negotiating around some of those numbers. I remember originally, I think it was the children's program, started at a staffing of 60 and I think that was the number that was then lowered to 24. I think that the Committee, again, has worked very hard to do this at the lowest cost possible and to suggest, as I thought I understood, that this is sort of a ruse to add more people to the payroll or to somehow, you know, log on more people just in jobs is clearly not true. These are programs that come before us frequently because there is a crying need. People suggest that this should be funded out of the Department or this should be funded some other way. Well frankly, I've sat through many debates here, on the floor, and many hours in the Health and Human Services Committee when these critical needs were just not addressed. We've been unwilling to address them in any other way and, again, I commend the people who have worked hard to find some way to fund something that is a critical need. We do this all the time, look for ways to pay for the things we have to pay for in a year of declining revenues, and I think we're fortunate to have this before us and I hope that we all vote in favor of the pending motion.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: CATHCART, CLEVELAND, DAGGETT, GOLDTHWAIT, JENKINS, KILKELLY, LAFOUNTAIN, LONGLEY, MILLS, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CASSIDY, FERGUSON, HALL, HARRIMAN, KIEFFER, LIBBY, MACKINNON, MICHAUD, MITCHELL, SMALL

ABSENT: Senator: CAREY

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent, the motion by PARADIS of Aroostook to ACCEPT the Majority OUGHT TO PASS (H.P. 1338) (L.D. 1887) Report, in concurrence, PREVAILED.

The Bill READ ONCE.

House Amendment "C" (H-723) READ.

THE PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Hall.

Senator HALL: Thank you Mr. President, ladies and gentlemen of the Senate. Seeing as I never got an answer to my question, I decided to look at the House Amendment and add up the figures on how many new employees we will have with passage of this. Well, if we get the federal waiver, that will add 67 new jobs and we're going to add another 65 jobs with the increased cigarette tax that the state's going to take in. That's 132 new jobs in the State of Maine. Ladies and gentlemen, this is a jobs bill. That's a lot of money. I haven't taken the time yet to add up the thousands of dollars that that involves, so if somebody would like to get a calculator and like to add that up real quick and get up and tell us all, I think everybody would appreciate it. Why you couldn't be honest and truthful and tell us what this bill was, I don't know, but that's exactly what it is, a jobs bill, 132 new positions in state government. How many of you came down here to trim state government. If you vote for this amendment to go onto this bill, I want you to go home, call your newspapers, your radio stations and tell them what you've done because I hope the press will read this, because the press is here to let the folks in Maine know what this bill is all about. I urge you to vote against the pending motion of Acceptance of this House Amendment and ask for a division.

Off Record Remarks

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Pingree.

Senator PINGREE: Thank you Mr. President, men and women of the Senate. I know there's been some confusion around this question and one of the advantages of having a phone at your desk is sometimes you have the opportunity to look into something that's not yet printed or on the floor. It is my understanding that at 6 o'clock last night, a deal was struck with the Department of Human Services to remove what was an outrageous fiscal note on this bill. There's no question about it. We've all had to deal with fiscal notes. We all wonder why the numbers are what they are. Sometimes you talk them through, you work it through, you realize you can do things a little differently than was first proposed. My understanding is the arrangement that was made last night was for 24 positions total, down from 132. There wasn't time to print a new amendment for this. It will have to be dealt with on the Appropriations Table, but that is the number that it will take to do what is stated in this bill.

At the request of Senator HALL of a Division was had. 17 Senators having voted in the affirmative and 14 Senators having voted in the negative, House Amendment "C" (H-723) ADOPTED, in concurrence.

Under suspension of the Rules, the Bill READ A SECOND TIME.

On motion by Senator PINGREE of Knox, TABLED until Later in Today's Session, pending PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence.

Off Record Remarks

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

COMMITTEE REPORTS

House

Ought to Pass

The Committee on BUSINESS AND ECONOMIC DEVELOPMENT on Bill "An Act to Review Registration of Certified Nursing Assistants" H.P. 1206 L.D. 1706

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 LATER TODAY ASSIGNED FOR SECOND READING.

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the following Tabled and Later (5/15/97) Assigned matter:

Emergency

An Act to Prohibit the Stocking of Alewives in Tripp Pond H.P. 729 L.D. 993 (H "A" H-387 to C "A" H-316)

Tabled - May 15, 1997, by Senator **PINGREE** of Knox.

Pending - **ENACTMENT**

(In Senate, May 12, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-316) AS AMENDED BY HOUSE AMENDMENT "A" (H-387)** thereto, in concurrence.)

(In House, May 15, 1997, **PASSED TO BE ENACTED.**)

This being an Emergency Measure and having received the affirmative vote of 24 Members of the Senate, with no Senators having voted in the negative, and 24 being two-thirds of the entire elected Membership of the Senate, was **ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Senate at Ease

Senate called to order by the President.

Off Record Remarks

On motion by Senator **PINGREE** of Knox, **RECESSED** until 2:30 in the afternoon.

After Recess

Senate called to order by the President.

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

COMMUNICATIONS

The Following Communication: S.C. 347

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA, MAINE 04333**

May 29, 1997

Honorable Joy J. O'Brien
Secretary of the Senate
118th Legislature
Augusta, Maine 04333

Dear Madam Secretary:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Promote Wildlife Rehabilitation Centers" (H.P. 551) (L.D. 742):

Representative **STEVENS** of Orono

Representative **AHEARNE** of Madawaska
Representative **LEMONT** of Kittery

Sincerely,

S/ Joseph W. Mayo
Clerk of the House

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

The Following Communication: S.C. 348

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON APPROPRIATIONS AND FINANCIAL
AFFAIRS**

May 28, 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 Appropriations and Financial Affairs has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1433 Resolve, to Compensate Janice Burns of South Portland as Personal Representative of the Estate of Wrendy Hayne of Augusta

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

Sincerely,

S/Sen. Michael H. Michaud
Senate Chair

S/Rep. George J. Kerr
House Chair

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

The Following Communication: S.C. 349

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

May 28, 1997

Joy J. O'Brien
Secretary of the Senate
118th Legislature
Augusta, ME 04333

Dear Secretary O'Brien,

Please be advised I have appointed the following Conferees to the Committee of Conference on the disagreeing action between the two branches of the Legislature on Bill "An Act Regarding the Taxation of Goods Purchased in Connection with the Operation of a High-stakes Beano or High-Stakes Bingo Game" (H.P. 1307) (L.D. 1855):

Senator Ruhlin of Penobscot
Senator Daggett of Kennebec
Senator Mills of Somerset.

Sincerely,

S/Mark W. Lawrence
President of the Senate

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

Off Record Remarks

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

SECOND READERS

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

House

Bill "An Act to Review Registration of Certified Nursing Assistants" H.P. 1206 L.D. 1706

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

Senate As Amended

Bill "An Act to Authorize Transfer of Property Taxes to the Passamaquoddy Tribe" S.P. 588 L.D. 1758 (C "A" S-344)

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

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon, with exception of those matters being held, were ordered sent down forthwith for concurrence.

Senate at Ease

Senate called to order by the President.

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

ENACTORS

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

An Act to Authorize a Physician's Assistant or a Nurse Practitioner to Sign Papers Transferring a Patient for Evaluation for Emergency Involuntary Commitment S.P. 83 L.D. 263 (S "A" S-322 to C "A" S-227)

An Act to Amend the Law Governing Municipal Zoning with Respect to Community Living Arrangements S.P. 292 L.D. 943 (C "A" S-263)

An Act to Enhance Parental Involvement in Developing Educational Programs for Students with Disabilities S.P. 344 L.D. 1121 (C "A" S-332)

An Act to Amend Certain Motor Vehicle Laws S.P. 473 L.D. 1475 (C "A" S-319)

An Act to Enhance the Collection of Unemployment Benefit Overpayments H.P. 1080 L.D. 1517 (C "A" H-693)

An Act to Protect Workers and Establish Labor Standards for "Workfare" Participants H.P. 1122 L.D. 1578 (C "A" H-677)

An Act to Make Fish in Maine Rivers Safe to Eat and Reduce Color Pollution S.P. 528 L.D. 1633 (C "B" S-324)

An Act to Authorize Interest-only Interim Financing in the School Construction Funding Process S.P. 532 L.D. 1637 (C "A" S-328)

An Act to Permit the Retail Sale of Smoked Alewives H.P. 1187 L.D. 1686 (C "A" H-613)

An Act to Adopt the Multistate Tax Compact S.P. 590 L.D. 1760 (C "A" S-325)

An Act to Authorize Captive Insurance Companies H.P. 1260 L.D. 1787 (C "A" H-638)

An Act to Amend Maine's Involuntary Commitment Laws H.P. 1276 L.D. 1806 (C "A" H-710)

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

An Act to Encourage the Use of Motor Vehicles That Use Alternative Sources of Fuel for the Purpose of Reducing Air Pollution

H.P. 300 L.D. 364
(S "A" S-337 to C
"A" H-680)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

An Act to Change the Reimbursement for Law Enforcement Personnel Testifying in Court

H.P. 404 L.D. 549
(H "A" H-672 to C
"A" H-639)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

An Act to Amend the Workers' Compensation Law as It Pertains to Employer-selected Health Care Providers

H.P. 863 L.D. 1180
(C "A" H-615)

Senator **AMERO** of Cumberland requested a Division.

On motion by Senator **RAND** of Cumberland, 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 **ENACTMENT**. (Roll Call Ordered)

An Act Concerning Authorization of Educational Technicians

H.P. 890 L.D. 1207
(C "A" H-688)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

An Act to Amend the Maine Apprenticeship Program

S.P. 455 L.D. 1429
(C "A" S-298)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

An Act to Amend the Prevailing Wage Laws

H.P. 1037 L.D. 1454
(C "A" H-551)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

An Act to Improve the Child Development Services System and Encourage Collaboration in Early Childhood Programs with School Administrative Units

H.P. 1125 L.D. 1581
(C "A" H-703)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

An Act to Simplify the Process for Applying for State Services for People with Disabilities

H.P. 1200 L.D. 1700
(C "A" H-702)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

An Act to Implement Federal Welfare Reform Mandates for State Child Support Enforcement Laws

H.P. 1290 L.D. 1835
(C "A" H-699)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

An Act to Protect Victims of Domestic Violence

H.P. 1317 L.D. 1867
(C "A" H-687)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

An Act to Implement the Recommendations of the Harness Racing Task Force

H.P. 1318 L.D. 1868
(C "A" H-690)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

Emergency

An Act to Require the Department of Transportation to Improve the Conditions of Any Road That May be Turned Over to a Municipality

S.P. 368 L.D. 1227
(C "A" S-318)

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

Emergency

An Act Relating to Municipal Excise Tax Reimbursement

S.P. 418 L.D. 1339
(C "A" S-331)

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

Emergency

An Act to Authorize the Public Utilities Commission to Establish Reasonable Registration and Reporting Requirements and to Study Market Power Issues Associated with Electric Industry Restructuring
S.P. 649 L.D. 1871
(C "A" S-327)

This being an Emergency Measure and having received the affirmative vote of 26 Members of the Senate, with no Senators having voted in the negative, and 26 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Increase the Debt Limit of the Vinalhaven Water District
S.P. 652 L.D. 1873
(C "A" S-316)

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with no Senators having voted in the negative, and 27 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Resolve

Resolve, to Establish a Coordinated Information Referral System and a Single Intake System for the Department of Corrections, the Department of Education, the Department of Human Services, the Department of Mental Health, Mental Retardation and Substance Abuse Services and the Department of Public Safety
H.P. 664 L.D. 917
(C "A" H-685)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**.

Resolve, to Plan for Services for Children with Mental Health Needs
S.P. 579 L.D. 1744
(C "A" S-334)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**.

Mandate

An Act to Amend the Victims' Rights Laws
H.P. 879 L.D. 1196
(C "A" H-691)

On motion by Senator **MICHAUD** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

Mandate

An Act to Allow the Separation of Frye Island from the Town of Standish
H.P. 899 L.D. 1216
(C "A" H-602)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 25 Members of the Senate, with 1 Senator having voted in the negative, and 25 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

(See action later today.)

Emergency Mandate

An Act to Revise the Salaries of Certain County Officers
H.P. 1341 L.D. 1890

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

Senator **RAND** of Cumberland moved the Senate **RECONSIDER** whereby it **PASSED TO BE ENACTED**:

Mandate

An Act to Allow the Separation of Frye Island from the Town of Standish
H.P. 899 L.D. 1216
(C "A" H-602)

(In House, May 29, 1997, **PASSED TO BE ENACTED**.)

At the request of Senator **BENNETT** of Oxford a Division was had. 11 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **RAND** of Cumberland to **RECONSIDER** whereby the Bill was **PASSED TO BE ENACTED, FAILED**.

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

ORDERS

Joint Order

On motion by Senator **BENNETT** of Oxford, the following Joint Order:
S.P. 669

ORDERED, the House concurring, that the Joint Select Committee on Research and Development is established as follows.

1. Establishment. The Joint Select Committee on Research and Development, referred to in this order as the "committee," is established.

2. Membership. The committee consists of 14 Legislators appointed jointly by the President of the Senate and the Speaker of the House. The 14 members must include at least one member from each of the following joint standing committees: the Joint Standing Committee on Appropriations and Financial Affairs; the Joint Standing Committee on Business and Economic Development; the Joint Standing Committee on Education and Cultural Affairs; the Joint Standing Committee on Taxation; the Joint Standing Committee on Natural Resources; the Joint Standing Committee on Marine Resources; and the Joint Standing Committee on Agriculture, Conservation and Forestry.

3. Duties. The committee shall review the current policies and programs within the State in support of applied research and development in the following target areas:

- A. Aquaculture and marine sciences and technology;
- B. Biotechnology;
- C. Composite materials engineering;
- D. Environmental sciences and technology; and
- E. Information sciences and technology.

4. Meetings. In conducting its duties, the committee may meet with any individuals, departments, organizations or institutions it considers appropriate. At a minimum, the committee shall meet with the representatives of the following:

A. The University of Maine System, including representatives of the chancellor's office, the University of Maine and the University of Southern Maine;

B. The Maine Technical College System;

C. The Maine Science and Technology Foundation;

D. The Department of Economic and Community Development;

E. The Department of Marine Resources;

F. The State Planning Office;

G. The Department of Agriculture, Food and Rural Resources; and

H. The Department of Environmental Protection.

5. Plan. The committee shall develop and recommend a plan for the support of research and development in the 5 target areas within the State set forth in section 3. The plan must address the following issues:

A. The role of research and development in the economic development strategy of the State;

B. The relative role of educational institutions, governmental agencies, private research facilities and businesses within the State's research and development strategy;

C. The level of bonding for capital investments in support of research and development in the target areas and the manner in which such funds should be expended;

D. The level of funding for the Maine Economic Improvement Fund, established pursuant to L.D. 1854, the manner in which such funds should be expended and the source for the funding; and

E. The proper tax policy in support of research and development and, if that policy includes tax exemptions or other tax breaks, the method of funding that tax policy.

6. Appointments. All appointments must be made no later than 30 days following the effective date of this order. The

appointing authorities shall notify the Executive Director of the Legislative Council upon making their appointments. When the appointment of all members is complete, the Chair of the Legislative Council shall call and convene the first meeting of the committee no later than October 15, 1997. The committee shall select a chair from among its members.

7. Staff assistance. The committee shall request staffing and clerical assistance from the Legislative Council, which must be provided within the available resources.

8. Compensation. Members of the committee are entitled to receive the legislative per diem as defined in the Maine Revised Statutes, Title 3, section 2 and reimbursement for travel and other necessary expenses for attendance at meetings of the committee.

9. Report. The committee shall submit its findings and plan, along with any necessary implementing legislation, to the Second Regular Session of the 118th Legislature by January 1, 1998. If the committee requires an extension of time to make its report, it may apply to the Legislative Council, which may grant the extension.

Which was **READ**.

On motion by Senator **BENNET** of Oxford, Senate Amendment "A" (S-346) **READ** and **ADOPTED**.

Which was **PASSED, As Amended**.

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon, with exception of those matters being held, were ordered sent down forthwith for concurrence.

In reference to: Legislative Sentiment recognizing the following Scout Masters of Boy Scout Troop 603, of Augusta: Bill Vogt, Paul Lawler and David Breau and current Scout Masters John True and Steve Dunn, for their support to youth and the contributions that the youth have made to their community through scouting. In 1996, Boy Scout Troop 603 had the highest number of Eagle Scouts within the Pine Tree Council. We extend our appreciation to them for their devotion to the youth of Maine; SLS 250

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

Senator **DAGGETT:** Thank you Mr. President and members of the Senate. I'd just like to take a moment to let you know of the wonderful activities and community involvement of, particularly, the Eagle Scouts around our state and specifically the Eagle Scouts from Troop 603. Troop 603 and the men who are being recognized today have spent an incredible amount of time and effort in working with these youngsters and contributing to our communities with the projects that they do as Eagle Scouts and it's a wonderful program for the youngsters. I'd also like to thank Glen Adams, whose son is in the Troop who helped arrange this and get them here today. Thank you.

Off Record Remarks

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/28/97) Assigned matter:

JOINT ORDER - relative to establishing the Joint Select Committee on Research and Development S.P. 668

Tabled - May 28, 1997, by Senator **RAND** of Cumberland.

Pending - motion by Senator **BENNETT** of Oxford to **PASS**

(In Senate, May 28, 1997, on motion by Senator **BENNETT** of Oxford **READ**.)

On motion by Senator **RAND** of Cumberland, the Joint Order **INDEFINITELY POSTPONED**.

Senate at Ease

Senate called to order by the President.

In reference to: Joint Resolution in Memoriam - relative to Jacquelyn Rennie Wagner of Orono. HLS 534

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

Senator **CATHCART:** Thank you Mr. President, men and women of the Senate. I had hoped that Jim Wagner from Orono would be able to come down when we passed the Joint Resolution in Memoriam for his late wife, Jackie, but he was unable to do that. He's away with his son this week. I just wanted to say a few words about Jackie who was a good friend of mine. We lost Jackie in a tragic boating accident last October, down in Sorrento, where they loved to go. And she was a tireless advocate for housing for low-income people, housing for the elderly. She was a wonderful wife and mother and she was the kind of mother that not only had a huge brood of her own, but over the years took in many foreign exchange students through AFS and she just had a world-wide family who loved her so much, and I just ask that when we adjourn today, could we do it, please, in memory of Jackie Wagner? Thank you Mr. President.

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

Bill "An Act to Exempt Contract Dance Instructors from the Unemployment Tax" (Emergency) H.P. 24 L.D. 49 (H "A" H-525)

Tabled - May 29, 1997, by Senator **PINGREE** of Knox.

Pending - **FURTHER CONSIDERATION**

(In Senate, May 21, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-525)**, in concurrence.)

(In House, May 23, 1997, **PASSED TO BE ENACTED**.)

(In Senate, May 28, 1997, Bill and Accompanying Papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.)

(In House, May 29, 1997, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.)

Senator **CATHCART** of Penobscot moved to **RECEDE** and **CONCUR**.

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with 1 Senator having voted in the negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, the motion by Senator **CATHCART** of Penobscot to **RECEDE** and **CONCUR PREVAILED** and was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

An Act to Amend the Workers' Compensation Law as it Pertains to Employer-selected Health Care Providers H.P. 863 L.D. 1180 (C "A" H-615)

Tabled - May 29, 1997, by Senator **RAND** of Cumberland.

Pending - **ENACTMENT** (Roll Call Ordered)
(In Senate, May 28, 1997, **PASSED TO BE ENGROSSED BY COMMITTEE AMENDMENT "A" (H-615)**, in concurrence.)

(In House, May 29, 1997, **PASSED TO BE ENACTED**.)

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: CAREY, CASSIDY, CATHCART, CLEVELAND, JENKINS, KILKELLY, LAFOUNTAIN, LONGLEY, MICHAUD, MILLS, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, KIEFFER, LIBBY, MACKINNON, MITCHELL, SMALL

ABSENT: Senators: DAGGETT, RUHLIN

19 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 2 Senators being absent, the Bill was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Senate at Ease

Senate called to order by the President.

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

After Recess

Senate called to order by the President.

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

ENACTORS

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

An Act to Amend the Election Laws S.P. 574 L.D. 1731
(C "A" S-230)

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

Emergency

An Act to Make Maine Health Insurance Laws Consistent with Federal Laws H.P. 1278 L.D. 1808
(C "A" H-610)

This being an Emergency Measure and having received the affirmative vote of 25 Members of the Senate, with no Senators having voted in the negative, and 25 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Off Record Remarks

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

COMMITTEE REPORTS

House

Ought to Pass

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, to Direct the State Board of Education to Study the School Funding Formula H.P. 1344 L.D. 1895

Reported that the same **Ought to Pass**, pursuant to Joint Order (H.P. 1332).

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.

Under suspension of the Rules, the Resolve **READ TWICE**.

On motion by Senator **CATHCART** of Penobscot, Senate Amendment "A" (S-345) **READ**.

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

Senator **CATHCART:** Thank you Mr. President, men and women of the Senate. I urge you to support this Senate Amendment that I have prepared for you tonight. The bill that we're dealing with here on the school funding formula is the study that was directed in the budget that we passed at the end of March and it directed the Joint Standing Committee on Education to report out a bill to give a process and a schedule for studying the School Funding Formula, and the Committee has worked for some weeks on this schedule and process. The amendment that I'm presenting to you tonight is essentially, what until last Friday, was the Majority report of a divided report that the Committee was working on. And I was on this side of this report and last Friday, under some pressure from time and from some of our leadership to try to get out a unanimous Committee report, some of us on the Committee who had been on this Majority report that you see as S-345 tonight felt pressured to go ahead and compromise, and we did compromise. And I realized later that the compromise we had agreed to funded the Essential Programs and Services Study for this year to report back in January and then only after that was back, it was going to set up a committee through the State Board of Education that would then study the school funding formula, but its date to report back, which is what I hadn't quite understood, was that it was not going to report back until the next Legislature in January of 1999. And even though I voted for this bill in the Committee last Friday, I think I made a real mistake there because my schools just are not willing to wait until 1999 for us to take another look at the school funding formula. They have lost so much money and I feel that I owe it to them to ask you to support this amendment tonight which asks for the School Funding Formula that we voted on in the budget, but it also asks that this be done at the same time as the State Board of Education is having the Committee study the Essential Programs and Services and that it allows them to work together and then come back to the Education Committee next January with their recommendations. I see no reason this wouldn't work extremely well. The Essential Programs and Services group was set up partly on the recommendation of the Wasser Commission which reported back in, which did '94 and '95 a study, a five member distinguished panel and they strongly recommended studying, because of the task force on learning results, the study of the essential services and programs based on the work of the Task Force on Learning

Results and that this plan include a parallel program creating accountability for essential programs and services. So I see this Essential Programs and Services study as sort of a two-part thing to look at such issues as the learning results and what subjects of study are described as essential in the learning results and what programs and services all of our schools must have to ensure that all of our children in the State of Maine get a good education. But the other part of that is looking at the adequacy of the school funding and whether it is distributed in a fair manner. And the Essential Programs and Services study as set up right now, I do not believe is going to do that. I really believe we need this second committee that will look at the school funding formula and that is what my amendment would do. We had agreement before the Committee changed this from the State Board of Education to do this separate study and then work in conjunction with the Essential Programs and Services group before coming back to us. They had agreed that that could be done. The members of the Education Committee had submitted names of people that we thought were experts in this area to the state board. We had a whole list of people that we had recommended from whom they could choose the ten members of this study group, and I know of at least one person who's told me that he was contacted and asked if he would serve on this study group starting right away. But for now, what the Committee has done, and not all the members of the Committee were even there last Friday and those people unfortunately, because of the pressure of time and getting a bill out, I don't blame anyone for that, but not all of the people on the Committee were even able to vote on this. But what I think it has done is it's put it off for a whole year later and, as I said, I just don't believe that our schools are willing to wait that long. I think this has to be done in the next year to give us, who are in this Legislature, a chance to be accountable for our essential programs and services and for the way we distribute our school funds to make sure that every child in this state is going to get an adequate and fairly equitable chance at an education. So I do urge your support and, Mr. President, I request a roll call. Thank you.

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

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Pendleton

Senator **PENDLETON:** Thank you Mr. President, men and women of the Senate. This issue reminds me a bit of a baby with colic. You think you just have it calmed down and quieted and, bingo, it starts screaming again. The Committee worked very hard, and as the good Senator from Penobscot said, Senator Cathcart, we worked many, many hours on this issue. It always boiled down to one thing. The one thing that it always seems to boil down to is that we have a pie that we are trying to cut up into several different pieces in order to have fair, equitable funding for all our municipalities and every single one of our school children in this state. The problem is, the pie is never big enough. When the state started cutting down or flat-funding our school GPA, we got into this horrible dilemma of how to cut up that pie. The problem I see with this amendment, and it's true, this was one of the reports of the three. We had three separate reports that we were going to come to the Legislature, the full Legislature, with and we thought, perhaps that was not responsible and maybe not fair to come with three different reports to have you take a look

at. So we sat down and tried to come up with a compromise which is the resolution before you. The amendment is one of those three reports. The problem the Committee had with this particular report which is on this amendment is that it gives a laundry list of different things that it's asking the State Board of Education to look into as far as school funding. Every single one of the issues on this laundry list has been studied and studied and studied again. It's like a laundry list. The problem is that the laundry has been washed, dried, and put away. What we've asked the State Board to do in this resolution is we've asked them to compile those studies, look at those studies, and let us know, first of all, what are the essential services and programs that we should be offering every student in the State of Maine. Once we've determined what those essential services are and what those programs are that are needed, then we asked the State Board to look at the funding formula to see that every single child in the State of Maine got a fair, adequate education. I believe that the resolution which was a unanimous report of those persons present is the best vehicle to get us to that end. And so I would wish that, and hope, that you would vote against this amendment so that we can move on to the resolution, the unanimous Committee report, and I thank you for your support.

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

Senator **CASSIDY:** Thank you Mr. President, men and women of the Senate. I rise this evening to hope that you would consider supporting the present limit that we have before us. I've talked with many of you the last two or three years, here in the Chamber and in the corridors and the coffee shop, or wherever we may be discussing the issue of funding for education. As you know, a few years ago we had formulas that seemed to be working throughout the state. The last two sessions at least that I can attest to, we've had some big shifts in the funding and where it has gone in the state. And I've said many times in this Chamber, the thing that we need to be mostly concerned about is a fair and equitable education for every student in the State of Maine. It doesn't matter what geographical location they live in, and today we all know that we have just finally approved, last week, the learning results for the state and hopefully we're going to ensure that each child has at least proved that they have had a quality education and that they're competent in certain areas. And I'm really excited about this amendment. The reason that I am is because it asks us to come back in January when we still have time maybe to take a look. Are we offering a fair and equitable education in every county in the State of Maine? I know I've told you before, some of the hardships that we've had in my district and, as a matter of fact, I was watching the news on Channel 6 a couple of mornings ago and I saw this face I recognized and it was the Superintendent from Union 106 in Calais. And his discussion was that the city was looking at laying off 11 teachers in our small community of 4,000 people. He was talking about the other option of a 30% increase in taxes locally, which I'm sure the citizens would be very concerned about. And these kinds of issues that we're dealing with back in my district, and what I would like to see is to take a look at how are we funding our schools, what is the most fair option, what is equitable, and I see nothing wrong with a study that comes back and says, "Okay, this is fair. We need to adjust this. We need to add something to a formula." You know, I don't know what the answer will be, but it certainly doesn't hurt to look at the issue and I want to say that I am not the only person in these

Chambers that's concerned about this. I've talked to many of you who have had the same concern and therefore, I ask you to support the motion for this amendment that we have before us. Thank you.

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

Senator **NUTTING:** Thank you Mr. President, men and women of the Senate. When I was here in the other body, I did spend 8 months, back in the late 80's, on a Commission studying the school funding formula. And it was a tremendous education for me. And as I look at the bill out of Committee and then as I look at the amendment, to me, I see a lot more clarity in the amendment. Part of that panel I was on, as the duties of that panel, we studied the essential programs but we also took a look at the school funding formula and the other adjustments or amendments that have been put on it over the years. We did this all at the same time and that's what's called for in this amendment. I think it's very, very doable. I'm troubled by the fact that, in the bill itself, we really don't get enough, a report back on equity until January 15, 1999. That's way too long for me. The amendment has the State Board look at, for instance, whether or not including income and cost of living adjustment factors has been fair. I know there's one particular community in my Senate District, a very, very poor rural community, that for some amazing reason, I haven't been able to figure out yet is, and I may be one or two off, but is the 35th wealthiest town in the State of Maine. And we have been over and over and over it and we just can't understand, and even talking with the people in the Department of Education, they can't understand why some communities are ranked higher than what you think they are and why some communities are ranked lower than what you think they should be. It's amazing to me that this rural town, the town of Wales, average community income is \$3,500 per house higher than Kennebunkport, Maine and has lost thousands of school funding dollars, thousands and thousands of dollars because of that. So I think we need to get this report quicker. We need to give the State Board of Education, and the experts that are going to come in to help them do this, more clarity, and the clarity I see in this amendment and I hope you will support the pending motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Small.

Senator **SMALL:** Thank you Mr. President, men and women of the Senate. I really thought the good Senator from Cumberland, Senator Pendleton, did an excellent job of outlining the Committee's decision to have what was the unanimous report out of Committee on how we would conduct the study, but just to provide a little bit more information or maybe to clarify some issues. The income and COLA part of the formula that was new to the formula that we passed last session is going to be studied over the summer, well, probably starting September to January. The department will be coming back to us with a number of concerns that we've raised, such as the accuracy of the income data and how do we make that even more accurate, how do we get that down so that it's a true indication of a community's ability to pay and some issues that were brought up about the COLA. They will also be reporting back to us, so that we will have the information in January, to take a look at that portion of the funding formula that was the major change to the funding formula

that we passed last session. So that will be coming back in January, that's not to be postponed for another year. One of the reasons that we finally came to a unanimous report, we had a divided report for a while and then we came to a unanimous report, was the State Board's admitting that they did not have the time to do everything that was in the amendment. They're going to begin in September. There's no emergency on this amendment. There's no emergency on the bill. Frankly, we didn't think we could get the two-thirds to put that through. So they're going to begin in September and they're going to report back in January on how we're going to redo the funding formula, and as someone that's lived through that longer than she's cared to, you don't do something like that in four months and particularly with a state board that is a volunteer organization that also has a number of other tasks that they're supposed to be looking at and reporting back to us, such as school construction, such as essential services and now we're going to give them, take a whole look at the funding formula and report back to us in January on any major changes or making major changes. All the things that are in this amendment have already been studied and if you'd like a copy of their study, I'd be happy to provide you with one. They've been studied and studied, and we came up with a report last session that passed the Legislature and not everybody was happy with what happened with it. I would just as soon take a look at the income and COLA provision and see if that is as accurate as we need, not to eliminate it, but to look at how we gather the data and how we can make it even a better vehicle for assessing wealth. But I certainly don't want to see yet another change to the funding formula. We all marveled that we got the budget out in time so that schools could set their budgets. Well, that's really great for this year, but what happens next year if we come up with a whole new funding formula and they have to, again, make drastic changes to their budget. I mean, talk about not having long-range plans on your education strategies for your local districts. If you're going to be under the perception, and it's been that way every year or every session we've been up here, that every new Legislature's going to come in and create a new formula, it makes it very difficult to plan more than one or two years into the future. So I think just timewise it would be impossible for the state board to do what is asked of them in that amendment and they said as much to us.

The other part that I think is essential, no pun intended, we are looking at essential services and that is going to be, I think, a major, major policy change for how we fund education and I can't say how it's going to be changed because that's what the state board is looking at, but they're going to determine, as everyone said, what every school should be offering to the students of Maine, whether they are in western Maine or northern Maine or southern Maine, what every student has the right to expect from their education. And those things will be listed and then we are going to have to determine how are we going to guarantee that every student is going to be entitled to this, not the athletic programs, not the administrative cost, but the actual core curricula that the kids are dealing with every day. And we're going to have to look at how to make that doable in every district, not just my district, not just your district, but every district. That's where the change in the funding formula is going to take place but you can't do them simultaneously. You have to first determine what the essential services are and then you have to look at how we're going to fund them and that's why the delay on the funding portion was built in there. A, for the state board to have time to do the essential services and the other charges that we've asked of them and then to, after essential services have

been approved, how are we going to fund them? How are we going to implement them? And that, I think, is what should drive the funding formula, not an every year or an every two year cutting up of the pie and redistributing the money according to who's got the most political clout. It's unfortunate that every year we have to have this debate, and as the good Senator from Cumberland, Senator Pendleton, said, if we had enough money, we wouldn't even be dealing with this right now. We wouldn't even be discussing this because every district would be doing a little better than they did last year. But we don't have that money and hopefully essential services may be a catalyst to provide some more money to go into education so that all districts can make more the next year, even if they're losing students and even if their valuation is increasing which is usually the reason why subsidy is decreased in a district. So I hope you will vote for the indefinite postponement of that amendment so we can allow the state board to go ahead with its study in a very reasonable time frame and come back to us with first the essential services component and then the component on how we're going to fund that. Thank you.

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

Senator **MITCHELL:** Thank you Mr. President, women and men of the Senate. I speak to you this evening in response to the cries I'm hearing and the outcry, rather, from our school officials, school board members and our Selectmen, town officials in the various communities in my district. I held educational forums within the last two weeks and two of them, the guest speakers were the Commissioner of Education and the Chancellor of the University. They were besieged with questions from both the parents and the concerned officials of the schools and our towns with, "You've got to do something for us on this formula. You're telling us about the learning standards, what we need to be doing to have equal education in this state, and yet we're cutting, first we started with sports and now we're cutting arts, and we're cutting music out of some our school programs because we cannot live with what we're receiving for an allotment. This formula, the 15% rule, 15% that covers the costs of living and the average income is not equal. Costs of living needs to be the same in the state, not changed and we're also looking at how are you determining the average income?" The answer was not clear and it was not accurate and the Commissioner admitted that this was not possible at this time. It wasn't accurate information that was given on the towns, on the accuracy of the income. They're also concerned and the questions that are still unanswered are what are we going to do about the out-of-district placement moneys that's killing us in a small town. If you have one student and it's costing you \$150,000 a year, how can the small towns afford that? There are problems like this that need to be addressed, they can't wait. And they're constantly asking, "What are you going to do to help us provide equal education and what are you going to do to help us? You have not taken away any of the tax burden, and we know you gave us a little more and the cushion has helped in some of our towns, but we're still less than what we had before and we're still having to cut programs that are critical. It isn't fair if students can go to a school in another area and achieve a different education, a much better education, than they can in a rural setting. So what are we going to do about it?" And this is why we feel that it needs to be expedited. The Board of Education, I've talked to a couple of members on the Board, they

realize the impact that this has on our school districts and I think by having this escalated and paying more attention to it, we need to be able to do something for relief for our schools in central and northern Maine and I urge you to vote in support of the amendment. Thank you.

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

Senator **CATHCART:** Thank you Mr. President, members of the Senate. I know it's getting late and I'm sorry to rise again, but I did just want to say a couple more things. On one issue, we certainly all agree. If we had enough money to fund the formula adequately for everyone, then we'd probably all be very happy and our schools would not be calling us, those of us whose schools have lost \$3 million, or half a million or whatever in the last few years. Under the 1984-1985 school funding formula which was designed to produce equity in education for all the children in the State of Maine, Maine was a national model. It was a wonderful funding formula but it was driven by spending the money and needing more for the next year and it worked beautifully, up until we hit the budget shortfall in 1990 and we had to start fooling with it. The 1984-85 funding formula looked at the average per pupil expenditure for the State of Maine. It looked at each town and what property tax, what local effort that town was able to make and then, on top of that local effort, the state funded every pupil in that school up to the state average per pupil expenditure which was reasonably fair. Now, I mean nobody is ever going to stop towns that are richer from spending more money on their kids, sending them away on wonderful trips or whatever they are able to do. But don't we, as the Legislature, feel that we should at least assure that every child gets a basically good education, and that is what we are asking for. Since 1991, this Legislature, previous Legislatures, but the Maine Legislature has made changes in our school funding formula every year or every two years and Commissioner Albanese was kind enough with the Education Committee, for those of us who had not been on the Committee before, to go through those changes and tell us what had been done. I'm still trying, as the good Senator from Androscoggin, Senator Nutting, said, to figure out what's happened with some of my towns and I'm asking the department to give me more information. But the fact is that we keep changing it, and the previous Legislature to this one changed it again and all I can say is, I'm not sure what was wrong in that but it has got to be studied again and I would like as much as anyone else here to come up with a formula that would ensure equity and that we could stick with for a long time, the way we tried to do with the '84-'85 equitable funding formula, but that's not what's happened. This year even with the huge increase that we thank the Education and Appropriations Committees for and it was a very large increase, 47% of the schools in the state still lost funding, with the 2%, 3% and the \$3 million hardship cushion each year, nearly half of the schools in the state still lost funding. That says to me there is a crisis, that something is wrong, and I urge you to support this Senate Amendment so that we can get a study done by next year and make a difference. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Small.

Senator **SMALL:** Thank you Mr. President. I just want to kind of clarify a couple of statements. One of the reasons that some districts received a significant loss this session, this year,

was the fact that we have been cushioning, we've been cushioning for the past sessions. Every time we made a change, we cushioned and so many districts that were due for a decrease because of declining students, even under the old formula, declining students and increased valuation got a cushion. They got a cushion one year, and the next year we created a different cushion and they got another cushion that year, and they got another cushion the next year. And all of a sudden, we've got a new formula. The cushions that were used when those formulas were being looked at are gone and so instead of having an incremental loss over the last four or five years, you had it all pushed up to one year. The cushions helped them to incur the loss in three or four years previous, but they never took into the consideration that it was a one-year cushion. It wasn't built into the formula. It was a cushion to help them make the changes in that year, to be able to budget for the next year, and when they didn't do that they might have gotten a cushion the next year, they might not. But if you look at the districts that received losses, you probably will find that they received cushions over the last couple of years and so the loss of students or the increase of valuation doesn't show up that much. I have a strange district that I have a gainer, I have losers, and I have some that stay right about in the middle and I look at that because, of course, the first thing that I thought when I looked at my district was, oh, oh, the losers lost because of the income and I'm responsible for that. So I looked at each town and I did a printout of why they lost money. Some of them lost money because they had had a cushion for the last couple of years and instead, if they hadn't had the cushion, they might have had a \$10,000 or \$15,000 loss each year, but all of a sudden it shows up as a \$47,000 loss and they can't figure out why they have it. It's because we cushioned them over the last few years. Every one of my towns that lost money gained in valuation, all at a greater rate than the state level, so that's one of the reasons and some of them also lost students. So it was very easy to see within my district what was driving those changes. It was the same thing that was in the previous formula, the same things that were in the formula of '85, valuation and students. Those are the driving forces behind the formula.

I just want to reiterate, the State Board has their plate full and if we ask them to do this list of things, I'm afraid we'll either come back with a very cursory examination of the funding formula or they're going to come back and say, "We didn't have time to get to one, two and three," and then we're going to have to do it all over again because it won't be acceptable. So I hope you will take a more measured approach, allow the essential services to be conducted, and then have the full look at the funding formula, not necessarily the formula, but how we're going to fund these, how we're going to guarantee that every child has access to those essential services. And Mr. President, I move that we indefinitely postpone the Senate Amendment and I request a roll call.

Senator **SMALL** of Sagadahoc moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-345).

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

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator O'Gara.

Senator **O'GARA:** Thank you Mr. President, ladies and gentlemen of the Senate. If this were not such a serious issue, some of the remarks by those who are supporting the amendment would almost be amusing, but they're not amusing. I served 12 years in the other body, during which time many, many communities that were high receivers didn't even want to consider the requests by communities who felt that they were not being treated fairly by the so-called equitable formula, which in my judgment was never equitable for a very good reason. It was never equitable and that is because many, many of those communities never have come close to making any kind of a reasonable mil effort to fund their education. As a result, they were able to be high receivers and use their tax dollars for other purposes. But that's another subject for another time, although I understand that that is one of the issues that the State Board will be looking at and that is one of the reasons why I feel it is a reasonable period of time, not between September and January, but in the following year. As I started to say, for years I was asked, as many other Legislators were, to consider changing the formula, but there was no support. And then things began to change because of the economy and a variety of other things, certain parts of the state began to see a little light at the end of the tunnel. And now all of a sudden, the formula wasn't working very well and it ought to be changed. But before, there was no support for it. Now we're looking at a request to change, to look at the formula and perhaps it should be looked at but very carefully and very painstakingly, including taking a look at communities and just what kind of effort are they making. Yes, it's nice to say that towns like Cape Elizabeth and Yarmouth and others can spend all they want to spend, but the fact of the matter is that a lot of those communities, while they feel very strongly about the education, can look at other communities that aren't making anywhere near the effort they should be making. In my judgment, ladies and gentlemen of the Senate, it is a reasonable time period that is being asked by the Education Committee, a 13 to 0 report, not four months, three months or five months. It's going to take a period of time to look at all aspects of this issue. I know I'm coming dangerously close to making this an "us against them" or "north against south" or "rich against poor" and I really don't want to do that, but I am suggesting to you that this is not an issue that needs to be rammed through in a short period of time. It is an issue that needs a lot of time and a lot of thought and a lot of input from a lot of people. I sincerely ask you to vote for the motion to indefinitely postpone so that the original motion can go forward. Thank you very much.

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

Senator **LIBBY:** Thank you Mr. President, men and women of the Senate. This has been a long debate, so I'll try to keep my remarks as short as possible. I think it's important to note that it's not the funding formula that is the problem and I think in order to really understand that, you have to take a look at what some of the other states are doing. Let me just give you one example. I got together with a bunch of groups, including the Education Commissioners of the states, on a trip I took a year or two ago and the state of Wyoming is the example I'm thinking of. Do you realize in the State of Wyoming, they had a similar problem to what we have and they did take a severe or a very difficult step in overcoming that. You know what they did? They redistricted and they went from a lot of districts down to 90, and that's not the

answer here but it's one possible solution. Here, in the State of Maine, we've got 287 school districts, or at least it's close to that at this point. Two hundred and eighty-seven school districts for a state with a population of 1.2 million. Compare that to the other states. Just compare it and you'll find, if you compare it by ratios or just by eyeing the numbers, you'll see that we have built-in waste, built-in waste. My school district, Bonny Eagle High School, I went to, is one of the largest districts in the state, as you know, one of the top three. We have one superintendent and an assistant. Now, for the same number of kids in other regions of the state, there can be as many as 20 superintendents. Now I've got a half-time Superintendent in my own district and I'd have a hard time justifying it. I'm not afraid to say that. The problem is structural. In northern and eastern Maine where admittedly, we're losing some students, you've still got the fixed costs, they're still there. And it seems to me, Mr. President, that that's a difficult problem. When you've got fixed costs and you've got fewer students, what do you do? Well, let me give you an example of a school district, or an area in the State of Maine, that did something about it. Rumford and Mexico. Rumford and Mexico. What did they do? They had to get together and combine the school districts because the mill closed down. The people left and that's what they had to do and it was a very difficult decision. It's painful but we have to face realities. The reality is, not only do we have a lot of school districts, we have a lot of municipalities, and there's duplication, there's duplication all throughout the system. If we don't take a look at either redistricting or consolidation, or even if it was voluntary, we've been looking in the two years that I was on the Education Committee. We looked at ways to build incentives for school districts to come to the state and say, "We're willing to combine." And there's actually three school districts right now, in central Maine, that have hired a consultant and they've formed a plan of how they would combine three school districts into one. Now whether or not they actually go forward with that plan and present that plan, I think we'd have to build more incentives for them to do that. It would be very difficult for them to come forward and do that when nobody else is doing it. But it's not the funding formula, it's not how we carve it up. When we were locked in that room for two months with Governor King and a mediator, two years ago on the Education Committee, Senator Abromson from Cumberland, Senator Small from Sagadahoc, myself and Senator Esty from Cumberland, and some good Representatives, we worked absolutely as hard as we could to make that funding formula as fair as we possibly could. And admittedly, one of the problems that resulted from what we did was that we don't really have the best data in the world to base the formula on. I think that was an excellent point that was brought up by the Senator from Androscoggin, Senator Nutting, some of the family income numbers, it's hard to believe, but we don't have the best of information here in the State of Maine. So we can tinker around with this all we want but it's not going to make a bit of difference. We're going to have to spend our moneys more wisely and we can do that and there are some studies actually already done for both consolidation and there's been redistricting studies done here in the State of Maine that we've looked at and they could be improved. They are not going to be improved by this amendment. This amendment's not going to get it and not only that, what this amendment will do, it will further the division, if there is one, between the north and the south. We can't afford to do that. We've got to stick together. We've got to come out with, and work on, a plan that makes sense. A plan like the one that was brought about in the town of

Rumford and the town of Mexico or a similar plan. You know, Lewiston and Auburn got together, and this is going to be my final remark. Lewiston and Auburn got together a few years ago and decided, "We're going to combine and we're going to purchase our number two fuel oil together and see how much we save." They saved thousands and, you know, that around the state, there has been a good movement by several school districts and actually, several groups of school districts to get together and purchase things in larger quantities and using economies of scale. And that's the one thing that I always respected about our last commissioner, Commissioner Mowat. He talked about economies of scale every single time he got up to the microphone. So, I guess I've spoken too, long here but I think you understand the point. This isn't going to do it. We've got to make some tough decisions here and I know we can do that, so I recommend that we please vote for this indefinite postponement of this amendment and then we get down to business and try to find out how we can save some money in the State of Maine and spend it more wisely in our school systems. Thank you.

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

Senator NUTTING: Thank you Mr. President. I'll be brief, I know it's my second time tonight, but I'm going to be voting against the pending motion. I believe the State Board of Education, if this bill passes, there's absolutely no need for them to wait until September 1st to begin the process. I believe they could begin much, much quicker than that. I need to also relay something that much of the work has already been done. For over 10 years now, the state has kept accurate numbers, as far as the number of property tax mills that are raised just for education in every community in the State of Maine. And in the 80's, when I served on the panel that studied the school funding formula then, most communities in Maine raised between 10 and 11 1/2 mills for education. Well, ladies and gentlemen of the Senate, if you look at that list now, I'm seeing communities that have gone from raising 10 1/2 mills down to 7. I've seen communities that have gone from raising 10 1/2 to 11 mills up to 16 and 17 property tax mills for education. That's something I can't personally live with and can't put off making a recommendation on until January 15, 1999. I'm going to be voting against this pending motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator O'Gara.

Senator O'GARA: Thank you Mr. President. Briefly, ladies and gentlemen of the Senate, to suggest that we use the numbers that most of the work is already done, to suggest that we use that data and that work is to suggest that we are going to be right back where we've been when we started.

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

Senator AMERO: Thank you Mr. President, ladies and gentlemen of the Senate. I think, if there's one thing that's true in every school district across this state, there isn't a school district that feels that they are getting their fair share through the School Funding Formula. I've served on 4 of the last 5 School Funding

Task Forces. We've had 5 task forces in 10 years. Each one of those task forces has opened up the whole school funding formula and looked at all of the issues that have been brought up tonight. At least in the last two reports, I've served with Senator Goldthwait who was then Councilor Goldthwait, back in 1993 and then in the last report, 1995, the Rosser Commission Report. Both of those reports recommended that we stop this constant changing of how you cut up the pie and instead look at what is happening in each of the school districts and let's look at what programs are being offered. Let's evaluate those and then let's fund, based on the districts that aren't providing those essential programs and services. And that's what I like about the report that came out of this Committee, because it focuses the Committee on, "Don't look at everything that has to do with school funding. Don't start again, from scratch, like the last 5 commissions have done. Focus on essential programs and essential services and tell us how we can better fund those programs across the state." Because if we, once again, open up everything to study, it's going to take a long, long time to do it right because all of the State Board of Education members are going to have to get up to speed. It takes months to go into all the intricacies so that people understand it carefully. If we can focus our efforts and pass the Committee's report I think we'll be doing a service for the people of this state and then begin to, continue to keep the data, to see whether we've got the right proportion as far as basing our formula on 85% property valuation, 15% income and those kinds of things that we can always change. But the real issue of what kind of services children are receiving across the state in our schools is the one we've really got to focus on and the one we can make a difference with if we accept the Committee's recommendation and indefinitely postpone the amendment before us. Thank you.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CAREY, GOLDTHWAIT, HARRIMAN, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MILLS, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, SMALL, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: CASSIDY, CATHCART, DAGGETT, FERGUSON, HALL, KIEFFER, KILKELLY, MICHAUD, MITCHELL, MURRAY, NUTTING, RUHLIN, TREAT

ABSENT: Senators: CLEVELAND, JENKINS

20 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **SMALL** of Sagadahoc to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-345), **PREVAILED**.

Which was **PASSED TO BE ENGROSSED**, in concurrence.

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

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

COMMUNICATIONS

The Following Communication: S.C. 350

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA, MAINE 04333**

May 29, 1997

Honorable Joy J. O'Brien
Secretary of the Senate
118th Legislature
Augusta, Maine 04333

Dear Madam Secretary:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act Regarding the Taxation of Goods Purchased in Connection with the Operation of a High-stakes Beano or High-Stakes Bingo Game" (H.P. 1307) (L.D. 1855):

Representative GREEN of Monmouth
Representative GAGNON of Waterville
Representative CIANCHETTE of South Portland

Sincerely,

S/Joseph W. Mayo
Clerk of the House

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

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **TAXATION** on Bill "An Act Concerning Technical Changes to the Tax Laws" (Emergency)
H.P. 601 L.D. 792

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-732)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-732)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-732) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME**.

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

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 Assist the Law Enforcement Community in Locating Missing Children" S.P. 553 L.D. 1679 (C "A" S-276)

In Senate, May 20, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-276)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-276) AS AMENDED BY HOUSE AMENDMENT "A" (H-707)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **MURRAY** of Penobscot, the Senate **RECEDED** and **CONCURRED**.

Non-concurrent Matter

Bill "An Act to Establish the Uniform Unclaimed Property Act" H.P. 1116 L.D. 1559 (C "A" H-682)

In Senate, May 27, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-682)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-682) AND HOUSE AMENDMENT "A" (H-733)** in **NON-CONCURRENCE**.

On motion by Senator **RAND** of Cumberland, **TABLED** until Later in Today's Session, pending **FURTHER CONSIDERATION**.

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order:

H.P. 1345

ORDERED, the Senate concurring, that the Joint Select Committee to Oversee Maine Yankee Atomic Power Company is established as follows.

1. Establishment. The Joint Select Committee to Oversee Maine Yankee Atomic Power Company, referred to in this order as the "committee," is established.

2. Membership. The committee consists of 7 Legislators appointed jointly by the President of the Senate and the Speaker of the House.

3. Duties. The committee shall monitor the developments at the Maine Yankee Atomic Power Company and report its findings to the Legislature.

4. Meetings. In conducting its duties, the committee may meet as often as necessary with any individuals, departments, organizations or institutions it considers appropriate.

5. Appointments. All appointments must be made no later than 30 days following the effective date of this order. The appointing authorities shall notify the Executive Director of the Legislative Council upon making their appointments. When the appointment of all members is complete, the Chair of the Legislative Council shall call and convene the first meeting of the committee no later than October 15, 1997. The committee shall select a chair from among its members.

6. Staff assistance. The committee shall request staffing and clerical assistance from the Legislative Council, which must be provided from within the available resources.

7. Compensation. Members of the committee are entitled to receive the legislative per diem as defined in the Maine Revised Statutes, Title 3, section 2 and reimbursement for travel and other necessary expenses for attendance at meetings of the committee.

8. Report. The committee shall submit its findings, along with any necessary implementing legislation, to the Legislative Council and the Second Regular Session of the 118th Legislature by January 31, 1998. If the committee requires an extension of time to make its report, it may apply to the Legislative Council, which may grant the extension.

Comes from the House **READ** and **PASSED**.

Which was **READ**.

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

Senator **CAREY:** Thank you Mr. President. I had intended to offer Senate Amendment "A" to this bill. In talking to my seat mate, Senator Cleveland, who is also on the Committee, he may have a much better amendment to be offered, and I would ask that this be tabled until tomorrow morning if it's at all possible. In the meantime, he will have that amendment here tomorrow morning.

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

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

ORDERS

Joint Resolution

On motion by Senator **ABROMSON** of Cumberland. (Cosponsored by: Senator **RAND** of Cumberland, Representative **QUINT** of Portland, Representative **SAXL** of Portland, Representative **J.E. MITCHELL** of Portland, Representative **FARNSWORTH** of Portland, Representative **TOWNSEND** of Portland, Representative **BRENNAN** of Portland, Representative **ROWE** of Portland, Representative **GIERENGER** of Portland.)

S.P. 670

JOINT RESOLUTION COMMEMORATING THE OPENING OF THE MERRILL AUDITORIUM IN PORTLAND

WHEREAS, the Portland City Hall Auditorium was built in 1912 as part of the current City Hall; and

WHEREAS, since its construction the auditorium has hosted artistic performances for audiences of all ages and interests; and

WHEREAS, in 1985 it became clear that time and use had taken their toll on this wonderful public facility; and

WHEREAS, the need to restore and renovate the auditorium led to a remarkable public and private partnership between the city and individual and corporate citizens from the area and throughout the State; and

WHEREAS, this partnership raised \$3,600,000 in public funds and nearly \$3,000,000 in private funds from over 1,200 private contributions and arranged the financing of a \$2,300,000 revenue bond from a consortium of local banks; and

WHEREAS, in addition to the many hundreds of people who donated their time, certain individuals deserve special acknowledgment for their role in this project, including the late Paul E. Merrill and his late wife Virginia S. Merrill, whose extraordinary generosity made this project possible and for whom the auditorium is now named; the members of the Auditorium Committee, chaired by Linda E. Abromson, who were charged with the job of guiding and monitoring the renovation and who fulfilled their charge so well that the Merrill Auditorium is now one of the premier entertainment facilities in New England; Peter and Pamela Plumb for their dedication, energy and zeal in leading the extremely successful private fund-raising effort critical to the project's success; Lee Urban, Chair of Portland Cares; the primary tenant organizations, the Portland Symphony Orchestra, Portland Concert Association and Friends of the Koltzschmar Organ, for their participation in every phase of the renovation and their perseverance while the hall was closed; and

WHEREAS, it is the sincere wish of everyone involved in this remarkable project that audiences of all ages and interests consider this facility "A Place for Everyone" and come once again to enjoy the Merrill Auditorium and the wonderful variety of shows that it will host; now, therefore, be it

RESOLVED: That the Members of the 118th Legislature, now, assembled in the First Special Session, take this opportunity to commend the many citizens and businesses of this State without whose help this project would not have been possible; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the individuals and organizations listed in this resolution.

Which was **READ** and **ADOPTED**.

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

Senator **ABROMSON:** Thank you Mr. President, ladies and gentlemen of the Senate. This Joint Resolution relates to commemorating the opening of the Merrill Auditorium in Portland, and I would only ask that if you haven't been there that you make the effort because those of you who may remember performances in the old Portland City Hall Auditorium will remember you couldn't see anything, you couldn't hear anything, but at least it was uncomfortable. And now if you will attend virtually any kind of a performance in the new Merrill Auditorium at Portland City Hall, you will see, you will hear and you will be comfortable and I urge you to attend any sort of a performance there. Thank you Mr. President.

Sent down for concurrence.

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

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 Revise Certain Provisions of Fish and Wildlife Laws" (Emergency) S.P. 520 L.D. 1604 (H "A" H-619 to C "A" S-281)

In Senate, May 22, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-281) AS AMENDED BY HOUSE AMENDMENT "A" (H-619)** thereto, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-281) AS AMENDED BY HOUSE AMENDMENT "A" (H-619)**, thereto, **AND HOUSE AMENDMENT "A" (H-659)** in **NON-CONCURRENCE**.

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

Non-concurrent Matter

Bill "An Act Concerning Acceptance of Campaign Contributions during Legislative Sessions" S.P. 662 L.D. 1882

In Senate, May 27, 1997, **PASSED TO BE ENGROSSED**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-649) AS AMENDED BY HOUSE AMENDMENT "A" (H-724)** thereto, in **NON-CONCURRENCE**.

Senator **DAGGETT** of Kennebec moved the Senate **INSIST**.

Senator **AMERO** of Cumberland moved the Senate **RECEDE** and **CONCUR**.

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

Senator **DAGGETT:** Thank you Mr. President and members of the Senate. I hope that you will oppose the current motion so that we can go on to Insist. The bill, which was a unanimous Committee report, dealt with campaign finance reform and dealt with the issue of campaign contributions to Legislators and Legislators soliciting campaign contributions from lobbyists during a legislative session. This was a bill that was heavily discussed in Committee and attempted to disconnect the linkage of, and the apparent appearance of, impropriety between Legislators who act on laws and those people who are paid to influence them. It's a very narrowly-crafted bill that seeks to deal with a specific issue. If we recede and concur, I would submit to you that we would be significantly muddying the waters in the Committee's effort to address campaign finance reform. The amendment that is currently on the bill includes not only the Legislature, but it adds the Governor and it adds constitutional officers. While I have poled the Committee regarding the issue of adding the Governor or taking a look at the Governor receiving contributions during a session, and the Committee would be very happy to look at this as an issue during a coming session, to add the Governor in to a legislative statute at this time I think would cause some problems, because it is a different situation and requires specific legislation that addresses the issue of a sitting Governor. To add in the constitutional officers demeans the issue of breaking the linkage between those who make the laws and those who are paid to influence them. Constitutional officers are not involved in law-making, are not involved in law-making, and so to add them into this makes the law, the proposed law, begin to look like a catch-all and not to do the job that it was meant to do. So I encourage you to please vote against the current motion and, Mr. President, I'd ask for a roll call.

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

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: **ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CASSIDY, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, KIEFFER, LIBBY, LONGLEY, MACKINNON, MILLS, MITCHELL, NUTTING, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE**

NAYS: Senators: **CAREY, CATHCART, CLEVELAND, DAGGETT, KILKELLY, LAFOUNTAIN, MICHAUD, MURRAY, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN**

ABSENT: Senator: **JENKINS**

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

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

Senator **PARADIS** of Aroostook requested and received leave of the Senate to change her vote from **YEA** to **NAY**.

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

Senator **PINGREE** of Knox requested and received leave of the Senate to change her vote from **YEA** to **NAY**.

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

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **AMERO** of Cumberland to **RECEDE** and **CONCUR, PREVAILED**.

ENACTORS

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

An Act to Provide Court-ordered Income Withholding of Spousal Support H.P. 1190 L.D. 1689 (C "A" H-681)

An Act to Repeal the Requirement That Victualers Be Licensed by a Municipality S.P. 563 L.D. 1720

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

ORDERS OF THE DAY

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

Bill "An Act to Increase the Excise Tax on Cigarettes to Support a Tobacco Prevention and Control Program and Reduce the Individual Income Tax Burden" H.P. 1279 L.D. 1816

Tabled - May 29, 1997, by Senator **PINGREE** of Knox.

Pending - motion by same Senator to **RECONSIDER** whereby the Majority **OUGHT NOT TO PASS** Report was **ACCEPTED**, in concurrence

(In House, May 28, 1997, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 28, 1997, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in concurrence.)

Senator **PINGREE** of Knox requested and received leave of the Senate to withdraw her motion to **RECONSIDER**.

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

ENACTORS

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

Resolve

Resolve, Directing the State Board of Education to Study Charter Schools and School Choice S.P. 498 L.D. 1560 (C "A" S-317)

Comes from the House, **FAILED FINAL PASSAGE**.

Which was **FINALLY PASSED** and signed by the President in **NON-CONCURRENCE**.

Sent down for concurrence.

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

ORDERS OF THE DAY

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

Bill "An Act to Establish the Uniform Unclaimed Property Act" H.P. 1116 L.D. 1559 (C "A" H-682)

Tabled - May 29, 1997, by Senator **RAND** of Cumberland.

Pending - **FURTHER CONSIDERATION**

(In Senate, May 27, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-682), in concurrence.)

(In House, May 29, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-682) AND **HOUSE AMENDMENT "A"** (H-733) in **NON-CONCURRENCE**.)

On motion by Senator **RAND** of Cumberland, the Senate **RECEDED** and **CONCURRED**.

Senate at Ease

Senate called to order by the President.

Off Record Remarks

Senator **PINGREE** of Knox moved the Senate extend until 10:00 p.m., pursuant to Senate Rule 514.

Senator **BUTLAND** of Cumberland requested a Division.

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.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: **CAREY, CATHCART, CLEVELAND, DAGGETT, GOLDTHWAIT, KILKELLY, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, TREAT, THE PRESIDENT - MARK W. LAWRENCE**

NAYS: Senators: **ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CASSIDY, FERGUSON, HALL, HARRIMAN, KIEFFER, MILLS, MITCHELL, RUHLIN**

ABSENT: Senators: **JENKINS, SMALL**

20 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **PINGREE** of Knox to extend until 10:00 p.m., pursuant to Senate Rule 514, **FAILED**.

On motion by Senator **RUHLIN** of Penobscot, **ADJOURNED** until Friday, May 30, 1997, at 8:30 in the morning, in honor and memory of Jacquelyn Rennie Wagner.