

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Nineteenth Legislature
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STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Thursday
April 8, 1999

Senate called to order by President Pro Tem Chellie Pingree of Knox County.

Prayer by Father Kevin Holsapple of St. Johns Episcopal Church in Bangor.

FATHER HOLSAPPLE: Before I make the prayer for this assembly we'll take a moment to make prayer for all the suffering people of the former Yugoslavia and of course for our own armed forces there.

Let us pray. Oh Lord God of hope, stretch forth, we pray Thee, Thy arm to strengthen and protect the soldiers of our country. Support them in this day of battle and in the time of peace keep them safe from all evil and do them with courage and loyalty. Grant that in all things they may serve with reproach. Through Jesus Christ, Our Lord. Amen.

And we pray for this assembly, Oh God, the fountain of wisdom whose statutes are good and gracious and whose law is truth. We beseech Thee so to guide and bless the Senate of this state now assembled that they may ordain for our governance only such things as please Thee. To the glory of Thy name and the welfare of Thy people, through Jesus Christ, Our Lord, Amen.

Reading of the Journal of Wednesday, April 7, 1999.

Off Record Remarks

Out of order and under suspension of the Rules, on motion by Senator MICHAUD of Penobscot, the following Joint Order:
S.P. 773

ORDERED, the House concurring, that when the House stands Adjourned it does so until Tuesday, April 13, 1999, at 9 o'clock in the morning and when the Senate stands Adjourned it does so until Tuesday, April 13, 1999, at 10 o'clock in the morning.

READ and PASSED.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act to Establish the Chesuncook Soil Series as the Official State Soil"

S.P. 203 L.D. 592
(C "A" S-29)

In Senate, March 30, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-29).**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-29) AS AMENDED BY HOUSE AMENDMENT "C" (H-165)** thereto, in **NON-CONCURRENCE.**

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

Joint Order

The following Joint Order: H.P. 1510

ORDERED, the Senate concurring, that the Joint Standing Committee on Inland Fisheries and Wildlife may report out legislation, to the House, to more equitably distribute gas tax revenues attributable to snowmobiles, all-terrain vehicles and watercraft.

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

READ.

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

SENATE PAPERS

Bill "An Act to Protect the Citizens of Maine from the Dangers of Counterfeit Consumer Goods" (EMERGENCY)
S.P. 775 L.D. 2174

Sponsored by Senator **KILKELLY** of Lincoln. Cosponsored by Representative **FISHER** of Brewer and Senators: **LaFOUNTAIN** of York, **NUTTING** of Androscoggin, **RAND** of Cumberland, Representatives: **COLWELL** of Gardiner, **LEMONT** of Kittery, **McALEVEY** of Waterboro, **POVICH** of Ellsworth, **WHEELER** of Eliot. Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

REFERRED to the Committee on **CRIMINAL JUSTICE** and ordered printed.

Sent down for concurrence.

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

Sent down for concurrence.

ORDERS

Joint Resolution

On motion by Senator AMERO of Cumberland (Cosponsored by Representative MARVIN of Cape Elizabeth and Representative CIANCHETTE of South Portland), the following Joint Resolution:
S.P. 774

JOINT RESOLUTION RECOGNIZING ANDY STROUT, WHO HAS BEEN NAMED NATIONAL GIRLS TENNIS COACH OF THE YEAR FOR 1999

WHEREAS, Andy Strout is the boys and girls tennis coach at Cape Elizabeth High School, where he has coached the girls team for 8 years and the boys team for 19 years; and

WHEREAS, he was just selected as Girls Tennis National Coach of the Year for 1999 by the National Federation Interscholastic Coaches Association; and

WHEREAS, this honor is given to represent all girls tennis coaches throughout the nation and is given to the person who best represents the sport; and

WHEREAS, Andy Strout was chosen as the National Girls Tennis Coach of the Year for his success as a coach; community service; involvement in other school activities; involvement in the coaching profession at local, state and national levels; and for his basic philosophy of athletics; now, therefore, be it

RESOLVED: That We, the Members of the 119th Legislature, now assembled in the First Regular Session, take this opportunity to extend our congratulations and very best wishes to Andy Strout on his success and achievements and to acknowledge his excellence in his chosen field; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to Cape Elizabeth High School and to Andy Strout.

READ.

Senator AMERO: Thank you Madam President. I rise today with a great deal of pride to ask you to support this Joint Resolution honoring a local boy from Cape Elizabeth, who was born, brought up and schooled in Cape Elizabeth. He went on to become a teacher and an outstanding coach in several fields. He has been recognized both as Maine and New England's Soccer Coach of the Year. For the last 19 years he's also coached boy's tennis at the Cape Elizabeth High School and for the last 9 years also coached girls tennis. This year he was recognized as the National Girls High School Tennis Coach of the Year. I think it's a great honor for a local boy who's done very well. I would urge your support of this Resolution.

ADOPTED.

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **BANKING AND INSURANCE** on Bill "An Act to Encourage Payment of Certain Workers' Compensation Premiums Owed to a Previous Insurer"

H.P. 1099 L.D. 1546

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

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

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

READ ONCE.

TOMORROW ASSIGNED FOR SECOND READING.

The Committee on **MARINE RESOURCES** on Bill "An Act to Clarify Minimum Size Standards for Marine Species under Aquaculture"

H.P. 793 L.D. 1116

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

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

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

READ ONCE.

TOMORROW ASSIGNED FOR SECOND READING.

Ought to Pass As Amended

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, to Create the Task Force to Explore Alternative Payment Mechanisms for Dental Health Care

H.P. 918 L.D. 1296

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-146)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-146)**.

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

READ ONCE.

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

TOMORROW ASSIGNED FOR SECOND READING.

The Committee on **JUDICIARY** on Bill "An Act to Change the Application of the Durable Financial Power of Attorney Provisions"

H.P. 721 L.D. 1011

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-138).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-138).**

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

READ ONCE.

Committee Amendment "A" (H-138) **READ** and **ADOPTED**, in concurrence.

TOMORROW ASSIGNED FOR SECOND READING.

The Committee on **JUDICIARY** on Bill "An Act to Allow Police Officers to Prosecute Their Own Traffic Infractions in District Court"

H.P. 814 L.D. 1137

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-136).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-136).**

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

READ ONCE.

Committee Amendment "A" (H-136) **READ** and **ADOPTED**, in concurrence.

TOMORROW ASSIGNED FOR SECOND READING.

The Committee on **JUDICIARY** on Bill "An Act to Provide Pre-judgment and Post-judgment Interest in Small Claims Actions"
H.P. 977 L.D. 1375

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-137).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-137).**

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

READ ONCE.

Committee Amendment "A" (H-137) **READ** and **ADOPTED**, in concurrence.

TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Make Confidential Certain Information Collected from Maine Farmers and Agricultural Business"

H.P. 536 L.D. 743

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-129).**

Signed:

Senators:

NUTTING of Androscoggin
KILKELLY of Lincoln
KIEFFER of Aroostook

Representatives:

COWGER of Hallowell
CARR of Lincoln
FOSTER of Gray
GOOLEY of Farmington
PIEH of Bremen
GAGNE of Buckfield
GILLIS of Danforth
CROSS of Dover-Foxcroft

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

Signed:

Representative:

VOLENIK of Brooklin

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-129) AS AMENDED BY HOUSE AMENDMENT "A" (H-164)** thereto.

Reports **READ.**

On motion by Senator **NUTTING** of Androscoggin, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-129) **READ.**

House Amendment "A" (H-164) to Committee Amendment "A" (H-129) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-129) as Amended by House Amendment "A" (H-164) thereto, **ADOPTED**, in concurrence.

TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on **BANKING AND INSURANCE** on Bill "An Act Authorizing Municipalities to Create Nonprofit Corporations for the Sole Purpose of Providing Homeowners Liability Insurance to Citizens of the Municipalities"
H.P. 351 L.D. 467

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

Signed:

Senators:

LaFOUNTAIN of York
DOUGLASS of Androscoggin
ABROMSON of Cumberland

Representatives:

JONES of Pittsfield
RICHARDSON of Brunswick
NUTTING of Oakland
O'NEIL of Saco
SAXL of Bangor
GLYNN of South Portland
MAYO of Bath
PERRY of Bangor
SULLIVAN of Biddeford

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-135).**

Signed:

Representative:

DUDLEY of Portland

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

Reports **READ.**

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

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act to Decrease the Mahogany Quahog Tax from \$1.20 per Bushel to \$.40 per Bushel"

H.P. 390 L.D. 521

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

Signed:

Senators:

RUHLIN of Penobscot
DAGGETT of Kennebec
MILLS of Somerset

Representatives:

GAGNON of Waterville
GREEN of Monmouth
COLWELL of Gardiner
STANLEY of Medway
LEMOINE of Old Orchard Beach

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-139).**

Signed:

Representatives:

LEMONT of Kittery
MURPHY of Berwick
CIANCHETTE of South Portland
BUCK of Yarmouth

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

Reports **READ.**

Senator **RUHLIN** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** 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 NOT TO PASS** Report, in concurrence.

Divided Report

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act to Increase the Frequency With Which Message Boards May Change Their Message"

H.P. 585 L.D. 825

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-125).**

Signed:

Senators:

O'GARA of Cumberland
CASSIDY of Washington

Representatives:

FISHER of Brewer
COLLINS of Wells
SANBORN of Alton
CAMERON of Rumford
WHEELER of Eliot
JABAR of Waterville
BOUFFARD of Lewiston
SAVAGE of Union
WHEELER of Bridgewater

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

Signed:

Representative:

LINDAHL of Northport

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-125)**.

Reports **READ**.

On motion by Senator O'GARA of Cumberland, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-125) **READ** and **ADOPTED**, in concurrence.

TOMORROW ASSIGNED FOR SECOND READING.

Senate

Ought to Pass As Amended

Senator MICHAUD for the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Increase Access to Primary Health Care in Rural Maine" (EMERGENCY) S.P. 202 L.D. 591

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-66)**.

Report **READ** and **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-66) **READ** and **ADOPTED**.

TOMORROW ASSIGNED FOR SECOND READING.

Senator MURRAY for the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Improve the Collection of Restitution" S.P. 268 L.D. 761

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-67)**.

Report **READ** and **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-67) **READ** and **ADOPTED**.

TOMORROW ASSIGNED FOR SECOND READING.

SECOND READERS

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

House As Amended

Bill "An Act Regarding Commercial Beano Halls" H.P. 57 L.D. 71 (C "A" H-126)

Bill "An Act to Implement the Recommendations of the Commission to Study Poverty Among Working Parents with Regard to State Earned Income Credit" H.P. 90 L.D. 103 (C "A" H-119)

Bill "An Act to Allow a Car Dealer to Operate a Motorcycle for Purposes of Testing or Transportation" H.P. 580 L.D. 820 (C "A" H-123)

Bill "An Act to Require Motor Vehicles to Stop for All Pedestrians in a Crosswalk" H.P. 742 L.D. 1032 (C "A" H-124)

Bill "An Act to Change the Tax Treatment of Truck Campers" H.P. 767 L.D. 1090 (C "A" H-120)

Bill "An Act to Increase Payments to Foster Parents" H.P. 871 L.D. 1228 (C "A" H-131)

READ A SECOND TIME and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

Senate

Bill "An Act to Expand Opportunities for Education, Training and Employment for Displaced Homemakers"

S.P. 409 L.D. 1198

READ A SECOND TIME and PASSED TO BE ENGROSSED.

Sent down for concurrence.

Senate As Amended

Bill "An Act to Amend the Centers for Innovation Program"

S.P. 329 L.D. 983
(C "A" S-62)

Bill "An Act to Strengthen the Criminal Justice Response to Domestic Violence"

S.P. 342 L.D. 996
(C "A" S-61)

Resolve, to Provide Incentives for School Breakfast Programs in Maine Public Schools

S.P. 524 L.D. 1558
(C "A" S-64)

READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED.

Sent down for concurrence.

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

ORDERS

Joint Resolution

On motion by Senator DOUGLASS of Androscoggin (Cosponsored by Senator KILKELLY of Lincoln, Representative HATCH of Skowhegan and Senator MILLS of Somerset, Senator PINGREE of Knox, Representative BRENNAN of Portland, Representative DAVIS of Falmouth, Representative MATTHEWS of Winslow, Representative TRACY of Rome, Representative TREADWELL of Carmel) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 214), the following Joint Resolution: S.P. 772

JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO INCREASE FUNDING TO SUPPORT SPECIAL EDUCATION

WE, your Memorialists, the Members of the One Hundred and Nineteenth Legislature of the State of Maine now assembled in the First Regular Session, most respectfully present and petition the members of the Congress of the United States, as follows:

WHEREAS, the people of Maine believe that every student should receive an adequate public education; and

WHEREAS, it costs on average more than twice as much to educate a student with a disability as to educate a student without a disability; and

WHEREAS, the issue of funding special education in our schools is one of the people of Maine's foremost concerns; and

WHEREAS, when the Individuals with Disabilities Education Act was first enacted, Congress committed to covering 40% of the cost of special education in the United States; and

WHEREAS, according to the Maine Department of Education, in fiscal year 1998, the Federal Government covered only 8.15% of the cost of special education in the State of Maine; and

WHEREAS, special education costs paid with local and state taxes have more than doubled in the past 10 years from \$52,697,027 in the 1987-1988 school year to \$139,008,607 in the 1997-1998 school year; and

WHEREAS, special education costs in some Maine communities consume a large percentage of local education dollars including:

1. An amount of \$4,595,769 constituting 19.7% of total education expenditures in the City of Auburn;
2. An amount of \$1,324,791 constituting 13.2% of total education expenditures in the Town of Wiscasset;
3. An amount of \$5,758,750 constituting 21.5% of total education expenditures in the City of Lewiston;
4. An amount of \$2,941,301 constituting 11.7% of total education expenditures in the City of Bangor;
5. An amount of \$14,860 constituting 21.7% of total education expenditures in Monhegan Plantation; and
6. An amount of \$6,357,742 constituting 12.4% of total education expenditures in the City of Portland; and

WHEREAS, the cost of special education has increased dramatically in recent years, causing property taxes in the State of Maine to rise and school districts around the State to cut activities such as art and music programs, field trips and extracurricular activities to maintain balanced budgets; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and request that the United States Congress increase funding to support special education at a level originally envisioned in the Individuals with Disabilities Education Act; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each member of the Maine Congressional Delegation.

READ and ADOPTED.

Sent down for concurrence.

ENACTORS

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

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Amend the Timing of Elections Following the Submission of a Petition for People's Veto

S.P. 52 L.D. 122
(C "A" S-24)

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

Senator **LONGLEY:** Thank you Madam President. Colleagues in the Senate, basically this is simple. I would like to add a clarifying piece. Statewide and general elections referred to here are related to Title 21A Section 1 Sub 19 and Article 4 Part 3 Section 20. Thank you.

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

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

REPORTS OF COMMITTEES

Senate

Ought to Pass

Senator **KIEFFER** for the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Allow Military Personnel Home on Leave to Purchase a Hunting or Fishing License for \$10"
S.P. 464 L.D. 1403

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

Report **READ** and **ACCEPTED**.

READ ONCE.

TOMORROW ASSIGNED FOR SECOND READING.

Ought to Pass As Amended

Senator **KILKELLY** for the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Amend the Laws Pertaining to Juvenile Hunters"

S.P. 83 L.D. 186

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-71)**.

Report **READ** and **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-71) **READ** and **ADOPTED**.

TOMORROW ASSIGNED FOR SECOND READING.

Senator **KILKELLY** for the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Enhance the Marketing and Promotion Capabilities of the Department of Inland Fisheries and Wildlife"

S.P. 138 L.D. 374

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-70)**.

Report **READ** and **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-70) **READ** and **ADOPTED**.

TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Continue Restorative Justice" (EMERGENCY)
S.P. 374 L.D. 1075

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

Signed:

Senators:

MURRAY of Penobscot
O'GARA of Cumberland
DAVIS of Piscataquis

Representatives:

POVICH of Ellsworth
FRECHETTE of Biddeford
CHIZMAR of Lisbon
QUINT of Portland
McALEVEY of Waterboro
PEAVEY of Woolwich
O'BRIEN of Augusta
TOBIN of Dexter
SHERMAN of Hodgdon

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-69).**

Signed:

Representative:

MUSE of South Portland

Reports **READ.**

On motion by Senator **MURRAY** of Penobscot, the Majority **OUGHT TO PASS** Report **ACCEPTED.**

READ ONCE.

TOMORROW ASSIGNED FOR SECOND READING.

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

REPORTS OF COMMITTEES

Senate

Ought to Pass

Senator **NUTTING** for the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Enhance Equity Under the Maine Milk Pool Laws"

S.P. 489 L.D. 1474

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

Report **READ** and **ACCEPTED.**

READ ONCE.

TOMORROW ASSIGNED FOR SECOND READING.

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the following Tabled and Later (4/7/99) Assigned matter:

Bill "An Act to Ensure the Availability of Funds for Tobacco Prevention and Control"

S.P. 769 L.D. 2167

Tabled - April 7, 1999, by Senator **RAND** of Cumberland.

Pending - **REFERENCE**

(Committee on **HEALTH AND HUMAN SERVICES** suggested and ordered printed.)

REFERRED to the Committees on **HEALTH AND HUMAN SERVICES** and **APPROPRIATIONS AND FINANCIAL AFFAIRS.**

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (4/7/99) Assigned matter:

Bill "An Act to Establish the Trust Fund for a Healthy Maine"

H.P. 1519 L.D. 2169

Tabled - April 7, 1999, by Senator **RAND** of Cumberland.

Pending - **REFERENCE**

(In House, April 7, 1999, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed.)

REFERRED to the Committees on **HEALTH AND HUMAN SERVICES** and **APPROPRIATIONS AND FINANCIAL AFFAIRS** and ordered printed, in **NON-CONCURRENCE.**

Sent down for concurrence.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Establish a School Voucher Program"

H.P. 1520 L.D. 2170

Comes from the House, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed.

REFERRED to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed, in concurrence.

Bill "An Act to Create the Maine Surrogacy Law"
H.P. 1523 L.D. 2173

Comes from the House, **REFERRED** to the Committee on **JUDICIARY** and ordered printed.

REFERRED to the Committee on **JUDICIARY** and ordered printed, in concurrence.

Resolve, to Require the Department of Transportation to Build a Truck Escape Ramp on Route 16 in Bingham
H.P. 1521 L.D. 2171

Bill "An Act Requiring That the Costs of Transporting Highway Construction and Maintenance Materials to Isle au Haut by Barge or Ferry be Paid from the Highway Fund"
H.P. 1522 L.D. 2172

Come from the House, **REFERRED** to the Committee on **TRANSPORTATION** and ordered printed.

REFERRED to the Committee on **TRANSPORTATION** and ordered printed, in concurrence.

Senator **O'GARA** of Cumberland was granted unanimous consent to address the Senate off the Record.

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

On motion by Senator **CATHCART** of Penobscot, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by President Pro Tem **CHELLIE PINGREE** of Knox County.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (4/7/99) Assigned matter:

HOUSE REPORTS - from the Committee on **MARINE RESOURCES** on Bill "An Act to Create a Senior Lobster and Crab Fishing License"
H.P. 1006 L.D. 1417

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-128)** (6 members)

Tabled - April 7, 1999, by Senator **GOLDTHWAIT** of Hancock.

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

(In House, April 5, 1999, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, April 7, 1999, Reports **READ**.)

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator MacKinnon.

Senator **MACKINNON:** Thank you Madam President. Men and women of the Senate, I rise today to ask you to please, when you get ready to cast your vote, to cast your vote against the Majority Report and allow the Minority Report to be brought forth as the correct Bill. I say this because this Bill allows senior citizens to obtain a license. It does not allow senior citizens to have traps. It allows a senior citizen to go as a grandparent with a grandchild on the ocean. It allows them to help them with the traps at this particular time. I think if you look at this it comes under the issue of safety. Right now a student license may not have anybody help them with their traps. So if we have some 11 year old out there working the sea, a storm may occur with no help with the traps, I think that becomes an unsafe measure. I certainly do not want that to occur. We do have a license moratorium right now but that's for traps. I'm sure one of the concerns of people is that if that grandparent really wants to go to the sea they can always get their grandchild to go out there and get a license and put 150 traps in the water, and they're going to beat the system. Well I'm not sure how many senior citizens are going to go out there and try to beat the system to get their traps and their licenses. Most senior citizens as they retire from their regular jobs look at it and say, what can I do to be productive, what can I do to enhance my family's situation. I would like to, certainly, when I reach that age soon, if I have grandchildren, maybe, if they decided that they wanted to go out and had a boat, and I wanted to go out and help them, I wouldn't want to have to go out and sit in the stern and say Oh my God, I can't touch that trap. Watch out don't fall. If you fall overboard don't worry, I'll get something after you and help you. I can't touch your trap but I can save you. Yes, it's kind of a Bill which says are we flying in the face of the laws and allowing a person to get around it. I don't think so. I think it's looking at a situation and saying here's a chance to maybe help families. Here's a chance to make sure that maybe that student who wasn't going to use lobstering as an industry, their parents may be in that they don't have time to go out. A chance to earn some money for college, a chance to stay in school, because hopefully the grandparent wouldn't say, today we're going out, and your going to skip school. So it may be a reason to make sure that these people are doing the right thing. So instead of belaboring the point, I would hope that you would defeat that. Allow senior citizens to go with their grandchildren on the sea and hopefully we won't be creating a large loop hole. Remember the bottom line is students can get a license today. They can get 150 traps. This only allows the grandparent to stand out there, to

help them tender the traps. It does not add any traps to those people's licenses. Thank you.

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

Senator **KILKELLY:** Thank you Madam President. Men and women of the Senate, the handout before you is a picture of a constituent of mine, Bob Foster, and his middle grandson. He's one of the people who brought this issue forward. There are a number of folks that would like to have an opportunity to pass on the tradition of lobstering to their grandchildren. This Bill provides that opportunity. It does not give them a license. It would not allow them to put extra traps on the floor as we've already heard, but it would allow them to go with their grandchild and provide them with some assistance on the water. As the picture shows, they can help on the land. They can help get the traps ready. They can get everything going. But, once they get in the boat that grandparent is prohibited by law from touching any of that gear. There are safety issues involved, but more important than safety issues, there is the issue of passing on tradition. The way we pass on tradition whether it's in the issues I deal with on hunting and fishing, or whether its on the water, those traditions are best passed on when it's within a family and it's handed down from one generation to the next. These folks aren't coming forward and saying we want to be able to fish our own traps. What they want to be able to do is to support their grandchildren in an opportunity to learn how to do this work. I think it is very important that we provide that opportunity in order for those traditions to be able to continue in the way that all of us have seen them from the past. I would urge you, then, to defeat the pending motion and go on to Pass the Minority Ought to Pass Report and allow these grandparents to spend some time with their grandkids out on the water learning about the tradition that has made Maine what it is. Thank you.

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

Senator **GOLDTHWAIT:** Thank you Madam Chairman and ladies and gentlemen of the Senate. There is a sacred precept in the lobster industry, that if you're not licensed, you don't touch a trap. You don't touch a line. You don't touch any of the gear for any reason whatsoever. This is something that has always been very strongly supported in the fishing community. This Bill would do several things that, in my mind, are a serious problem, which is why I am hoping you will support the Majority Report of the Committee which is the motion before you today. First of all, we certainly encourage the traditions in the lobster fishery, and I absolutely agree with the Good Senator from Lincoln, Senator Kilkelly, when she says that we want to see those traditions passed along from one generation to the next. But we want to see them passed along by licensed people. Plenty of kids in the fishery are fishing with their parents or grandparents, because those parents and grandparents are licensed in the lobster fishery. They are not people who used to fish some time ago, haven't had their license in a number of years, and now want to go again with their grandchild. There is nothing that prevents that grandparent from going out on the boat now, they are simply prohibited from handling the gear and the purpose of that is that we don't want unlicensed people handling gear. We do have a moratorium on licenses right now. You cannot get a license in the lobster fishery right now. We also have trap reductions in

effect. Fishermen, who we are asking to take traps out of the water, take serious exception to the fact that other people can be setting in. The Bill, and its intent, I respect and, in fact, I have some sympathy for, but what it does is it creates a big loophole and that is if you are over 65, if you've been a resident of the state of Maine for more than 5 years, and you have a child or grandchild who you take on the boat, you can then fish those 150 traps. We have fishermen, believe it or not in this state who are 4 and 5 years old. I call them fishermen with all due respect, because they are really fishing traps. They're going out with their dads. They're going out with their grandparents who have licenses. They haul their own traps. They learn the business that way. If you have a child that young, they are probably hauling 4, 5, 10 traps at the most. Often their parents say you can fish as many traps as your age. So a 6 year old will fish 6 traps. But if they go with a grandparent, that grandparent is going to haul through that string of 150 traps in a day. It is an increase in effort, it is at a time when we're asking people making their living from this business to cut back. It is not right to be creating a loophole.

My final comment is on safety, and obviously I would not do anything to violate the safety of a child in any way. Can anyone can tell me of a case that has been reported where a child has been injured or in jeopardy by being out fishing, I certainly have heard of none. They haven't come to my Committee. I haven't seen them in the newspaper. I am simply unaware ever of a case where a child was in a dangerous situation, because their parents supervise them, as well they should. They don't let them go out on stormy days. They don't let them go out by themselves. They don't let them go out of the inner harbor. That system has worked so far. If safety is an issue for you, consider if this Bill were to pass, that would mean that a person from Philadelphia, who has retired and has been living in Maine for more than 5 years who has never been in a boat in their life, can get one of these senior licenses take their 6 year old grandchild out on the water with a string of 150 traps, and not have a clue about what they are doing out there, the dangers, how to respect another fisherman's gear, areas they should stay away from, places where it's okay for them to fish, how quickly the weather may change on the coast of Maine. That, ladies and gentleman, would be a very serious safety problem. I urge your support for the pending motion of the Majority Report of the Committee, Ought Not to Pass. Thank you.

The Chair ordered a Division.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#50)

YEAS: Senators: ABROMSON, AMERO, BERUBE, CAREY, DOUGLASS, GOLDTHWAIT, MILLS, O'GARA, PARADIS, RUHLIN, SMALL, THE PRESIDENT PRO TEM - CHELLIE PINGREE

NAYS: Senators: BENNETT, CASSIDY, CATHCART, DAGGETT, DAVIS, FERGUSON, HARRIMAN, KIEFFER, KILKELLY, KONTOS, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MURRAY, NUTTING, PENDLETON

On motion by Senator **O'GARA** of Cumberland, **ADJOURNED**, pursuant to the Joint Order, until Tuesday, April 13, 1999, at 10:00 in the morning.

ABSENT: Senators: BENOIT, LAWRENCE, MICHAUD, MITCHELL, RAND, TREAT

12 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 6 Senators being absent, the motion by Senator **GOLDTHWAIT** of Hancock to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **FAILED**.

The Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in **NON-CONCURRENCE**.

READ ONCE.

Committee Amendment "A" (H-39) **READ** and **ADOPTED**.

TOMORROW ASSIGNED FOR SECOND READING.

Off Record Remarks

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

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Decrease the Mahogany Quahog Tax from \$1.20 per Bushel to \$.40 per Bushel"

H.P. 390 L.D. 521

Majority - **Ought Not to Pass** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-139)** (4 members)

Tabled - April 8, 1999, by Senator **RUHLIN** of Penobscot.

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

(In House, April 7, 1999, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, April 8, 1999, Reports **READ**.)

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

Off Record Remarks
