

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

In Senate Chamber  
Thursday  
May 20, 1999

Senate called to order by President Mark W. Lawrence of York County.

Prayer by Senator Georgette Berube of Androscoggin County.

**SENATOR BERUBE:** Let us bond together the words in the prayer of Saint Frances Xavier. We pass through this world but once oh Lord, any good, therefore, that we can do, or any kindness we can show another human being, let us do it now. Let us not defer, nor neglect it. For we shall not pass this way again. Amen

Doctor of the day, Sidney Sewall, MD, Hallowell.

Reading of the Journal of Wednesday, May 19, 1999.

The Chair noted the absence of the Senator from Penobscot, Senator **MITCHELL** and further excused the same Senator from today's Roll Call votes.

Off Record Remarks

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

Joint Order - relative to Establishing the Committee on Sawmill Biomass  
H.P. 1583

In House, May 17, 1999, **READ** and **PASSED**.

In Senate, May 17, 1999, **READ** and **REFERRED** to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT**, in **NON-CONCURRENCE**.

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

On motion by Senator **PINGREE** of Knox, placed on the **SPECIAL STUDY TABLE**, pending **FURTHER CONSIDERATION**.

**Non-Concurrent Matter**

Bill "An Act to Improve Alcohol Server Education Courses"  
S.P. 320 L.D. 954  
(C "A" S-228)

In Senate, May 10, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-228)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-228) AS AMENDED BY HOUSE AMENDMENT "A" (H-605)** thereto, in **NON-CONCURRENCE**.

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

**SENATE PAPERS**

Bill "An Act to Designate December 3rd as Kate James Day"  
S.P. 834 L.D. 2234

Sponsored by Senator **ABROMSON** of Cumberland.  
Cosponsored by Speaker **ROWE** of Portland and Senators: **AMERO** of Cumberland, **BENNETT** of Oxford, President **LAWRENCE** of York, **PINGREE** of Knox, Representatives: **CAMPBELL** of Holden, **MURPHY** of Kennebunk, **SAXL** of Portland, **SHIAH** of Bowdoinham.  
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Committee on **STATE AND LOCAL GOVERNMENT** suggested and ordered printed.

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Require Additional Vaccines for Employees of Health Care Facilities"

H.P. 846 L.D. 1180

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-603)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-603)**.

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

**READ ONCE.**

Committee Amendment "A" (H-603) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-603)**, in concurrence.

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The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Improve Consumers' Opportunities to Hire and Retain Personal Care Attendants"

H.P. 935 L.D. 1312

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-596)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-596)**.

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

**READ ONCE.**

Committee Amendment "A" (H-596) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-596)**, in concurrence.

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The Committee on **JUDICIARY** on Bill "An Act to Strengthen the Kinship Laws"

H.P. 886 L.D. 1243

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-599)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-599)**.

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

**READ ONCE.**

Committee Amendment "A" (H-599) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-599)**, in concurrence.

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The Committee on **UTILITIES AND ENERGY** on Bill "An Act to Enhance Access to Technology for Maine Schools and Libraries"  
H.P. 1516 L.D. 2164

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-594)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-594)**.

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

**READ ONCE.**

Committee Amendment "A" (H-594) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-594)**, in concurrence.

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**Divided Report**

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Increase Access to Cub Care for Children"  
H.P. 1255 L.D. 1809

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-595)**.

Signed:

Senators:  
PARADIS of Aroostook  
BERUBE of Androscoggin

Representatives:  
KANE of Saco  
BROOKS of Winterport  
FULLER of Manchester  
QUINT of Portland  
DUGAY of Cherryfield  
WILLIAMS of Orono

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

Signed:

Senator:  
MITCHELL of Penobscot

Representatives:  
LOVETT of Scarborough  
BRAGDON of Bangor  
SNOWE-MELLO of Poland

SHIELDS of Auburn

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-595)**.

Reports **READ**.

Senator **PARADIS** of Aroostook moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** 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 AS AMENDED** Report, in concurrence.

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**Divided Report**

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Define Paralegals and Legal Assistants"  
H.P. 517 L.D. 724

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

Signed:

Senators:  
LONGLEY of Waldo  
TREAT of Kennebec  
BENOIT of Franklin

Representatives:  
THOMPSON of Naples  
BULL of Freeport  
LaVERDIERE of Wilton  
JACOBS of Turner  
PLOWMAN of Hampden  
MADORE of Augusta  
SCHNEIDER of Durham

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

Signed:

Representatives:  
NORBERT of Portland  
MITCHELL of Vassalboro  
WATERHOUSE of Bridgton

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

Reports **READ**.

On motion by Senator **LONGLEY** of Waldo, the Majority **OUGHT TO PASS** Report **ACCEPTED**, in concurrence.

**READ ONCE.**

**LATER TODAY ASSIGNED FOR SECOND READING.**

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**Divided Report**

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Require the Department of Human Services to Provide Disclosure in Child Protection Proceedings"

H.P. 764 L.D. 1087

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

Signed:

Senators:

LONGLEY of Waldo  
TREAT of Kennebec  
BENOIT of Franklin

Representatives:

THOMPSON of Naples  
BULL of Freeport  
LaVERDIERE of Wilton  
JACOBS of Turner  
MITCHELL of Vassalboro  
NORBERT of Portland  
WATERHOUSE of Bridgton  
MADORE of Augusta  
SCHNEIDER of Durham

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-480).**

Signed:

Representative:

PLOWMAN of Hampden

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

Reports **READ.**

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

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**Divided Report**

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Eliminate the Minimum Quota Requirement for a Store to Have a Lottery Machine"

H.P. 78 L.D. 91

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

Signed:

Senators:

DAGGETT of Kennebec  
CAREY of Kennebec  
FERGUSON of Oxford

Representatives:

LABRECQUE of Gorham  
TUTTLE of Sanford  
SHIAH of Bowdoinham  
HEIDRICH of Oxford  
GAGNE of Buckfield  
FISHER of Brewer

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-578).**

Signed:

Representatives:

CHIZMAR of Lisbon  
MAYO of Bath  
PERKINS of Penobscot  
McKENNEY of Cumberland

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-578).**

Reports **READ.**

On motion by Senator **PINGREE** of Knox, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE.**

Sent down for concurrence.

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**Senate**

**Ought to Pass  
Pursuant to Public Law**

Senator KONTOS for the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to License Interpreters for the Deaf and Hard-of-Hearing"

S.P. 833 L.D. 2233

Reported that the same **Ought to Pass**, pursuant to Public Law 1997, chapter 749, section 4.

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

**READ ONCE.**

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**.

Sent down for concurrence.

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**Ought to Pass As Amended**

Senator KONTOS for the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Encourage Economic Development in the State"

S.P. 315 L.D. 949

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-309)**.

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

**READ ONCE**.

Committee Amendment "A" (S-309) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-309)**.

Sent down for concurrence.

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Senator KILKELLY for the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Allow the Commissioner of Inland Fisheries and Wildlife to Determine the Number of Moose Permits to Be Awarded"

S.P. 245 L.D. 667

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-313)**.

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

**READ ONCE**.

Committee Amendment "A" (S-313) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-313)**.

Sent down for concurrence.

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**Divided Report**

The Majority of the Committee on **LABOR** on Bill "An Act to Amend the Obligations of Direct Reimbursement Employers"  
S.P. 139 L.D. 375

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

Signed:

Senators:

LaFOUNTAIN of York  
MILLS of Somerset

Representatives:

HATCH of Skowhegan  
MUSE of South Portland  
GOODWIN of Pembroke  
FRECHETTE of Biddeford  
MATTHEWS of Winslow  
SAMSON of Jay  
DAVIS of Falmouth  
TREADWELL of Carmel

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-310)**.

Signed:

Senator:

DOUGLASS of Androscoggin

Representatives:

MacDOUGALL of North Berwick  
MACK of Standish

Reports **READ**.

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session pending **ACCEPTANCE OF EITHER REPORT**.

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**Divided Report**

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Clarify the Laws Relating to Off-track Betting Facilities"

S.P. 577 L.D. 1657

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-312)**.

Signed:

Senators:

DAGGETT of Kennebec  
CAREY of Kennebec  
FERGUSON of Oxford

Representatives:

TUTTLE of Sanford  
FISHER of Brewer  
GAGNE of Buckfield  
LABRECQUE of Gorham  
MAYO of Bath  
PERKINS of Penobscot  
HEIDRICH of Oxford

McKENNEY of Cumberland  
O'BRIEN of Lewiston

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

Signed:  
Representative:  
CHIZMAR of Lisbon

Reports **READ**.

On motion by Senator **PINGREE** of Knox, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**.

**READ ONCE**.

Committee Amendment "A" (S-312) **READ** and **ADOPTED**.

**LATER TODAY ASSIGNED FOR SECOND READING**.

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**SECOND READERS**

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

**House**

Bill "An Act to Increase the Deer Hunting Day by 15 Minutes"  
H.P. 30 L.D. 39

Bill "An Act to Allow Three Hunters to Hunt Deer Together"  
H.P. 704 L.D. 971

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

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**Senate**

Bill "An Act to Discourage Consumption of Alcohol by Minors"  
S.P. 422 L.D. 1259

**READ A SECOND TIME**.

Senator **LAFOUNTAIN** of York requested a Division.

On further motion by same Senator, **TABLED** until Later in Today's Session pending **PASSAGE TO BE ENGROSSED**. (Division Requested)

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**Senate As Amended**

Bill "An Act Concerning Corrections Employees"  
S.P. 455 L.D. 1330  
(C "A" S-307)

Bill "An Act to Amend the Laws Governing the Construction of Salt and Sand Storage Facilities"

S.P. 764 L.D. 2156  
(C "A" S-308)

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

Sent down for concurrence.

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**ENACTORS**

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

**Emergency Measure**

An Act to Clarify the Powers of Game Wardens When Stopping Motor Vehicles

S.P. 241 L.D. 663  
(C "A" S-251)

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with no Senators having voted in the negative, and 28 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.

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

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The President requested the Sergeant-at-Arms escort the Senator from Knox, Senator **PINGREE** to the Rostrum where she assumed the duties as President Pro Tem.

The President retired from the Chamber.

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

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Off Record Remarks

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**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 (5/3/99) Assigned matter:

SENATE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Resolve, Authorizing Certain Members of the Sullivan Family to Bring Suit Against the State  
S.P. 605 L.D. 1728

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-154)** (9 members)

Minority - **Ought Not to Pass** (4 members)

Tabled - May 3, 1999, by Senator **DAGGETT** of Kennebec.

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report

(In Senate, May 3, 1999, Reports **READ.**)

On motion by Senator **DAGGETT** of Kennebec, Bill and accompanying papers **COMMITTED** to the Committee on **LEGAL AND VETERANS AFFAIRS.**

Sent down for concurrence.

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Senate at Ease.

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

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Senator **GOLDTHWAIT** of Hancock was granted unanimous consent to address the Senate off the Record.

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The Chair laid before the Senate the following Tabled and Later (5/17/99) Assigned matter:

An Act to Amend the Laws Relating to Notaries Public  
H.P. 643 L.D. 893  
(C "A" H-411)

Tabled - May 17, 1999, by Senator **PINGREE** of Knox.

Pending - **ENACTMENT**, in concurrence

(In Senate, May 11, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-411)**, in concurrence.)

(In House, May 14, 1999, **PASSED TO BE ENACTED.**)

On motion by Senator **PENDLETON** of Cumberland, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-411).**

**REPORTS OF COMMITTEES**

On further motion by same Senator, Senate Amendment "A" (S-314) **READ** and **ADOPTED**.

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-411) AND SENATE AMENDMENT "A" (S-314), in NON-CONCURRENCE.**

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/18/99) Assigned matter:

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Resolve, Authorizing the Commissioner of Administrative and Financial Services to Sell or Lease the Interests of the State in the Maine Criminal Justice Academy in Waterville; Part of the Kennebec Arsenal in Augusta; Part of the Maine Youth Center in South Portland; and 2 Parcels in Gray Near the Pineland Center

H.P. 1203 L.D. 1713

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-413)** (11 members)

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

Tabled - May 18, 1999, by Senator **RAND** of Cumberland.

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

(In House, May 17, 1999, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-413) AS AMENDED BY HOUSE AMENDMENT "A" (H-516)** thereto.)

(In Senate, May 18, 1999, Reports **READ**. Senator **PENDLETON** of Cumberland moved to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.)

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

**READ ONCE.**

Committee Amendment "A" (H-413) **READ** and **ADOPTED**, in **NON-CONCURRENCE**.

**LATER TODAY ASSIGNED FOR SECOND READING.**

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

**Senate**

**Ought to Pass**

Senator PARADIS for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Provide Child Care Subsidies for Families Who Lose Coverage under the Temporary Assistance to Needy Families Program"

S.P. 433 L.D. 1270

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

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

**READ ONCE.**

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**.

Sent down for concurrence.

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

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

Senator **CAREY** of Kennebec 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.

Senator **GOLDTHWAIT** of Hancock was granted unanimous consent to address the Senate off the Record.

On motion by Senator **RAND** of Cumberland, **RECESSED** until the sound of the bell.

After Recess

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



The President Pro Tem requested the Sergeant-at-Arms escort the Senator from York, Senator **LAWRENCE** to the Rostrum where he resumed his duties as President.

The Sergeant-at-Arms escorted the Senator from Knox, Senator **PINGREE** to her seat on the floor.

Senate called to order by the President.

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

### REPORTS OF COMMITTEES

#### Senate

#### Ought to Pass As Amended

Senator DAGGETT for the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Regulate Push Polling" S.P. 420 L.D. 1257

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-315)**.

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

#### READ ONCE.

Committee Amendment "A" (S-315) **READ** and **ADOPTED**.

Under suspension of the Rules, **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 BY COMMITTEE AMENDMENT "A" (S-315)**.

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

### SENATE PAPERS

Bill "An Act to Amend the Laws Relating to the Location of Lobster Trap Escape Vents" (EMERGENCY) S.P. 835 L.D. 2236

Sponsored by Senator **GOLDTHWAIT** of Hancock.  
Cosponsored by Representative **ETNIER** of Harpswell.  
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Committee on **MARINE RESOURCES** suggested and ordered printed.

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

Under suspension of the Rules, 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 Designate December 3rd as Kate James Day" S.P. 834 L.D. 2234

Tabled - May 20, 1999, by Senator **PINGREE** of Knox.

Pending - **REFERENCE**.

(Committee on **STATE AND LOCAL GOVERNMENT** suggested and ordered printed.)

On motion by Senator **PENDLETON** of Cumberland, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**.

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

Senator **ABROMSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I rise this morning both sad and honored to explain L.D. 2234, as many of you have come up to me during Recess to ask who is Kate James? Kate James was a constituent of mine. She had Cystic Fibrosis and was awaiting a double lung transplant when she passed away. I'm honored, obviously you know why I'm saddened, to put in this Bill. I'm honored to do so because she lead an exemplary life. She was a real fighter and it's an honor to honor her. So it is for this reason that we put in this Bill, which I hope moves through the system rapidly, so that December 3, will become Kate James Day in Maine. Thank you Mr. President.

Sent down for concurrence.

**THE PRESIDENT:** The Chair is pleased to recognize in the Chamber Dr. Peter James, father of Kate James. Would he please rise and receive the greetings of the Senate.

### Off Record Remarks

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

**JOINT ORDER** - relative to recognizing that May 20, 1999 is Organ and Tissue Donor Awareness Day in Maine. We acknowledge the generosity of those who have donated in the past and those who will offer donation in the future to give countless people a second chance at life. We send our appreciation to the people who dedicate their time to making it possible for an organ and tissue bank to be available for people in need of a transplant;

SLS 178

Tabled - May 20, 1999, by Senator **PINGREE** of Knox.

Pending - **PASSAGE**

**READ.**

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

Senator **DAGGETT:** Thank you Mr. President. Members of the Senate, I am pleased to have an opportunity to help to call your attention to Maine's record of having the highest percentage of organ and tissue donation in the Nation. It speaks to the kind of state that we are, and helps to underscore the importance of these kinds of donations. Not just for life saving, but also to preserve the quality of life for many of our citizens. I hope that you will all take the opportunity to see the display, this is Organ and Tissue Awareness Day here, and the displays will be here from 9:00 a.m. until 2:00 p.m. to learn more about organ and tissue donation. We know that the more people understand about organ and tissue donation, the higher the donation rates are. So I hope that you will do what you can to help learn more about it and to spread the information as well. Thank you very much.

**PASSED.**

**THE PRESIDENT:** The Chair is pleased to recognize in the Chamber Bruce White, Coordinator of the Maine Transplant Program for the New England Organ Bank and Merl Nelson, former member of the other Body and a member of the Executive Committee of the New England Organ Bank. Would they please rise and receive the greetings of the Senate.

Sent down for concurrence.

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

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

HOUSE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act to Require Testing for HIV and Blood-borne Pathogens of All Prisoners in the Maine Correctional System"

H.P. 658 L.D. 914

Majority - **Ought Not to Pass** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-478)** (4 members)

In House, May 18, 1999, Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-478)**.

In Senate, May 19, 1999, Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

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

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

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

On motion by Senator **LONGLEY** of Waldo, 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 (#114)**

YEAS: Senators: AMERO, BENNETT, BERUBE, DAVIS, FERGUSON, HARRIMAN, KIEFFER, LIBBY, MILLS, SMALL

NAYS: Senators: ABROMSON, BENOIT, CAREY, CASSIDY, CATHCART, DAGGETT, DOUGLASS, GOLDTHWAIT, KILKELLY, KONTOS, LAFOUNTAIN, LONGLEY, MACKINNON, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, TREAT, THE PRESIDENT - MARK W. LAWRENCE

ABSENT: Senators: MICHAUD, RUHLIN

EXCUSED: Senator: MITCHELL

10 Senators having voted in the affirmative and 22 Senators having voted in the negative, with 2 Senators being absent, and 1 Senator being excused, the motion by Senator **HARRIMAN** of Cumberland to **RECEDE** and **CONCUR**, **FAILED**.

On motion by Senator **PINGREE** of Knox, the Senate **ADHERED**.

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**Non-Concurrent Matter**

HOUSE REPORTS - from the Committee on **MARINE RESOURCES** on Bill "An Act to Establish a Lobster Trap Tag Freeze to Limit Effort in the Lobster Fishery"

H.P. 1385 L.D. 1982  
(C "A" H-579)

Report "A" - **Ought to Pass as Amended by Committee Amendment "A" (H-579)** (10 members)

Report "B" - **Ought to Pass as Amended by Committee Amendment "B" (H-580)** (2 members)

Report "C" - **Ought Not to Pass** (1 member)

In House, May 18, 1999, Report "B", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-580) READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-580)**.

In Senate, May 19, 1999, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-579) READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-579)**, in **NON-CONCURRENCE**.

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

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

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### ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/19/99) Assigned matter:

Bill "An Act to Provide Computers for Use in the Legislature" (EMERGENCY)

H.P. 666 L.D. 922

Tabled - May 19, 1999, by Senator **PENDLETON** of Cumberland.

Pending - motion by Senator **BENNETT** of Oxford to **ADOPT** Senate Amendment "A" (S-306) to Committee Amendment "A" (H-320)

(In House, May 13, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-320)**.)

(In Senate, May 19, 1999, on motion by Senator **BENNETT** of Oxford, Senate Amendment "A" (S-306) to Committee Amendment "A" (H-320) **READ**.)

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

Senator **PENDLETON:** Thank you Mr. President. Men and women of the Senate, although this Amendment is very appealing because it helps us to fund the issue that is before us in this particular piece of legislation, the problem is in the Amendment. It puts into statute the staffing pattern for the two Chambers of the Legislature. And so that is why I'm concerned about the Amendment and I hope that you will vote Against the pending motion for Adopting Senate Amendment "A". Thank you.

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

Senator **BENNETT:** Thank you Mr. President. Fellow members of the Senate, my desire here with this Amendment is not to be prescriptive but simply to lay out to the Legislative Council on which I serve a basic statement by this Legislature which is that if we are to, as I think we should, increase the use of technology in this Chamber, the use of e-mail, the use of computers, than we

ought to commit ourselves now to finding the resources within the existing budget to do that. I believe that the use of this kind of equipment and this technology is actually going to reduce our expenditures. So I think that just making the statement that we will be committing ourselves to spending no more is a very modest statement indeed and for those reasons I ask you to support Adoption of the Senate Amendment. Thank you.

On motion by Senator **BENNETT** of Oxford, 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 (#115)**

YEAS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, CASSIDY, DAVIS, FERGUSON, GOLDTHWAIT, HARRIMAN, KIEFFER, LIBBY, MACKINNON, MILLS, SMALL

NAYS: Senators: BERUBE, CAREY, CATHCART, DAGGETT, DOUGLASS, KILKELLY, KONTOS, LAFOUNTAIN, LONGLEY, MICHAUD, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

EXCUSED: Senator: MITCHELL

14 Senators having voted in the affirmative and 20 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **BENNETT** of Oxford to **ADOPT** Senate Amendment "A" (S-306) to Committee Amendment "A" (H-320), **FAILED**.

Committee Amendment "A" (H-320) **ADOPTED**, in concurrence.

**LATER TODAY ASSIGNED FOR SECOND READING.**

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

Bill "An Act to Improve Alcohol Server Education Courses"  
S.P. 320 L.D. 954  
(C "A" S-228)

Tabled - May 20, 1999, by Senator **PINGREE** of Knox.

Pending - **FURTHER CONSIDERATION**

(In Senate, May 10, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-228).**)

(In House, May 19, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-228) AS**

**AMENDED BY HOUSE AMENDMENT "A" (H-605)** thereto, in **NON-CONCURRENCE.**)

On motion by Senator **PINGREE** of Knox, the Senate **ADHERED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/5/99) Assigned matter:

Bill "An Act to Terminate the Authority of the Governmental Facilities Authority"

S.P. 57 L.D. 127  
(C "A" S-146)

Tabled - May 5, 1999, by Senator **PINGREE** of Knox.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**

(In Senate, May 5, 1999, **READ A SECOND TIME.**)

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

Senator **PENDLETON:** Thank you Mr. President. Men and women of the Senate, I just would like to refresh us just a little bit on this piece of legislation, and just report to you that I checked with our Committee Clerk today to make sure that I was right, but the Report that came out of the Committee was a 10 to 3 Report, Ought Not To Pass. So I'm hoping you will vote with me Against the pending motion for Passage so that we can move on to the Majority Report which was Ought Not To Pass. Thank you.

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

Senator **KIEFFER:** Thank you Mr. President. Ladies and gentlemen of the Senate, this Bill was thoroughly debated in this Body when it was before us previously. I just would remind the fellow Senators that the vote at that time was 19 to 13 for passage of this Bill and I would appreciate your support again today. Thank you Mr. President.

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

**THE PRESIDENT:** The Chair recognizes the Senator from Hancock, Senator Goldthwait, ask the purpose for which the Senator arises.

Senator **GOLDTHWAIT:** Just to remind the Chamber that the time when the Government Facilities Authority was initially established the original Bill provided for a two-thirds vote for that Authority, and subsequently by floor Amendment that was reduced to a Majority vote only, which is the source of my objection to the provision. If we could get to the test of the two-thirds vote I would certainly feel a lot more comfortable. But since

we are not able to do that, I urge your support for the Passage To Be Engrossed motion before us. Thank you.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#116)**

YEAS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BERUBE, CAREY, CASSIDY, DAVIS, FERGUSON, GOLDTHWAIT, HARRIMAN, KIEFFER, LIBBY, MACKINNON, MILLS, NUTTING, SMALL

NAYS: Senators: CATHCART, DAGGETT, DOUGLASS, KILKELLY, KONTOS, LAFOUNTAIN, LONGLEY, MICHAUD, MURRAY, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

EXCUSED: Senator: MITCHELL

17 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 1 Senator being excused, the Bill **FAILED PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-146)**.

Sent down for concurrence.

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

Off Record Remarks

On motion by Senator **PINGREE** of Knox, **RECESSED** until 1:30 in the afternoon.

After Recess

Senate called to order by the President.

The President requested the Sergeant-at-Arms escort the Senator from Knox, Senator **PINGREE** to the Rostrum where she assumed the duties as President Pro Tem.

The President retired from the Chamber.

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

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass**

The Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Improve Snowmobile Trail Grooming" H.P. 763 L.D. 1086

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.**

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**, in concurrence.

**Ought to Pass As Amended**

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Amend the Health Care Receivership Laws" H.P. 1410 L.D. 2015

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-610)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-610)**.

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

**READ ONCE.**

Committee Amendment "A" (H-610) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-610)**, in concurrence.

The Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act Regarding Fish Stocking" H.P. 361 L.D. 486

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-607)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-607)**.

DAVIS of Piscataquis

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

**READ ONCE.**

Committee Amendment "A" (H-607) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-607)**, in concurrence.

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The Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Implement an Atlantic Salmon Conservation Plan"  
H.P. 1549 L.D. 2206

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-606)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-606)**.

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

**READ ONCE.**

Committee Amendment "A" (H-606) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-606)**, in concurrence.

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Protect Cemeteries"

H.P. 817 L.D. 1140

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

Signed:

Senators:

MURRAY of Penobscot  
O'GARA of Cumberland

Representatives:

POVICH of Ellsworth  
FRECHETTE of Biddeford  
CHIZMAR of Lisbon  
QUINT of Portland  
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**.

Signed:

Representative:

McALEVEY of Waterboro

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

Reports **READ**.

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

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Provide for Suit Against Certain State Employees"  
H.P. 819 L.D. 1142

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

Signed:

Senators:

LONGLEY of Waldo  
TREAT of Kennebec  
BENOIT of Franklin

Representatives:

THOMPSON of Naples  
BULL of Freeport  
LaVERDIERE of Wilton  
JACOBS of Turner  
MITCHELL of Vassalboro  
NORBERT of Portland  
MADORE of Augusta  
SCHNEIDER of Durham

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-611)**.

Signed:

Representatives:

PLOWMAN of Hampden  
WATERHOUSE of Bridgton

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

Reports **READ**.

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

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

**REPORTS OF COMMITTEES**

**Senate**

**Ought to Pass As Amended**

Senator TREAT for the Committee on **NATURAL RESOURCES** on Bill "An Act to Amend the Laws Governing the Land Application of Municipal Wastewater Treatment Plant Sludge"  
S.P. 307 L.D. 909

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-317)**.

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

**READ ONCE**.

Committee Amendment "A" (S-317) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**.

Sent down for concurrence.

Senator TREAT for the Committee on **NATURAL RESOURCES** on Bill "An Act to Amend the Water Quality Laws to Establish a New Standard for Mercury Discharges"  
S.P. 716 L.D. 2038

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-316)**.

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

**READ ONCE**.

Committee Amendment "A" (S-316) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**.

Sent down for concurrence.

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Off Record Remarks

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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 As Amended**

Bill "An Act to Provide Computers for Use in the Legislature" (EMERGENCY)

H.P. 666 L.D. 922  
(C "A" H-320)

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

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Senate at Ease.

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

---

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 Define Paralegals and Legal Assistants"  
H.P. 517 L.D. 724

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

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**House As Amended**

Resolve, Authorizing the Commissioner of Administrative and Financial Services to Sell or Lease the Interests of the State in the Maine Criminal Justice Academy in Waterville; Part of the Kennebec Arsenal in Augusta; Part of the Maine Youth Center in South Portland; and 2 Parcels in Gray Near the Pineland Center  
H.P. 1203 L.D. 1713  
(C "A" H-413)

**READ A SECOND TIME.**

On motion by Senator **PENDLETON** of Cumberland, the Senate **RECONSIDERED** whereby Committee Amendment "A" (H-413) was **ADOPTED**.

House Amendment "A" (H-516) to Committee Amendment "A" (H-413) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-413) as Amended by House Amendment "A" (H-516) thereto, **ADOPTED**, in concurrence.

**PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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**Senate As Amended**

Bill "An Act to Clarify the Laws Relating to Off-track Betting Facilities"

S.P. 577 L.D. 1657  
(C "A" S-312)

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

Sent down for concurrence.

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

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Off Record Remarks

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On motion by Senator **RAND** of Cumberland, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

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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:

**Emergency Measure**

An Act to Improve Access to Residential Care in Rural Maine  
S.P. 717 L.D. 2039  
(H "A" H-562 to C "A" S-222)

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

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**Emergency Resolve**

Resolve, to Establish a Commission to Encourage Incorporations in Maine

S.P. 697 L.D. 1972  
(C "A" S-215; H "A" H-549)

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

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**Emergency Resolve**

Resolve, to Provide for the Implementation of a Maine Meat Inspection Program

S.P. 780 L.D. 2190  
(C "A" S-274)

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

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**Pursuant to Constitution  
Public Land**

Resolve, Authorizing Certain Land Transactions by the Department of Conservation, Bureau of Parks and Lands

S.P. 805 L.D. 2218  
(C "A" S-273)

In accordance with the provisions of Article IX, Section 23 of the Constitution, this requires the affirmative vote of two-thirds of the entire elected Membership of the Senate, 27 Senators having voted in the affirmative and no Senators having voted in the negative, and 27 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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**Acts**

An Act to Impose Stricter OUI Penalties on Operators of Watercraft, ATVs and Snowmobiles

H.P. 209 L.D. 287  
(C "A" H-509)

An Act to Strengthen the Child Care Licensing Laws

H.P. 527 L.D. 734  
(C "A" H-533)

An Act Regarding Continuing Education for Professional Land Surveyors

H.P. 917 L.D. 1295  
(C "A" H-232; H "A" H-547)

An Act to Require More Timely Court-ordered Psychological Evaluations

H.P. 1092 L.D. 1539  
(C "A" H-534)

An Act to Amend the Maine Milk Laws

S.P. 667 L.D. 1889  
(C "A" S-272)

**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 Create Quality Child Care Investment Incentives

S.P. 359 L.D. 1063  
(H "A" H-583 to C "A" S-237)

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

---

An Act to Establish the Early Care and Education Revolving Loan Program

S.P. 362 L.D. 1066  
(H "A" H-588 to C "A" S-223)

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

---

An Act to Increase the Penalties for Persons in Possession of Methamphetamine in Conformity with the Penalties for Similarly Dangerous Drugs

H.P. 1129 L.D. 1588  
(C "A" H-535)

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

---

An Act to Remove the Statute of Limitations for Unlawful Sexual Contact and Sexual Abuse of Minors

H.P. 1412 L.D. 2019

(C "A" H-536)

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

**Resolve**

Resolve, to Establish the Task Force on State Office Building Location and Other State Growth-related Capital Investments  
H.P. 226 L.D. 304  
(C "A" H-292)

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

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

**REPORTS OF COMMITTEES**

**Senate**

**Ought to Pass**

Senator **MICHAUD** for the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Allow the Cumberland County Domestic Violence Unit to Hire 2 New Assistant District Attorneys Immediately" (EMERGENCY)  
S.P. 832 L.D. 2232

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

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

**READ ONCE**.

On motion by Senator **CATHCART** of Penobscot, under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**.

Sent down for concurrence.

**ORDERS OF THE DAY**

The Chair laid before the Senate the following Tabled and Later (5/10/99) Assigned matter:

SENATE REPORTS - from the Committee on **LABOR** on Bill "An Act to Exclude Claims for Intentional Criminal Acts from the Application of the Workers' Compensation Act of 1992"  
S.P. 47 L.D. 118

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-227)** (9 members)

Minority - **Ought Not to Pass** (4 members)

Tabled - May 10, 1999, by Senator **PINGREE** of Knox.

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report (Roll Call Ordered)

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

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

Senator **BENOIT:** Thank you Mr. President. May it please the Senate, I would like to speak on the pending motion and perhaps be brief about it. And to have you hark back to earlier in the month when we took this matter up and had some debate about it. You will recall that this is a Bill, which has as its purpose to bring into, or to create a Civil Law, and take some provision out of the Criminal Code to do it. And to thereby allow employees to sue employers in a civil action to recover damages occasioned by an egregious act that an employer might inflict upon and employee. I am standing in opposition to the pending motion and would like to share with you the reasons why. We all know that presently the Criminal Law protects employees whenever there is an egregious act that occurs against an employee by the employer. I want to have you have in mind when you vote on the measure, the language of our Maine Supreme Court, on the subject. The Maine Supreme Court recognizes and has stated in, I guess you can call it a leading case in this state on the subject, that a criminal sanctions are available when an employers behavior to an employee is egregious. I want to ask you a question. If somebody punches you in the nose, commits an assault upon you, what's the first thing you think about? Is it running and taking up the telephone, calling your private attorney to bring a civil action against that person who has committed a crime against you? With the attending legal fees, expenses of the suit, I would suggest to you, that is not the first thing you think about once you're assaulted. The first thing you think about, perhaps after wanting to retaliate by punching the person in the nose back, is to call the cops. Call the law enforcement community into the picture because you want that criminal action prosecuted to the fullest extent of the law. That is what employees should have as well. As you and I, in ordinary fashion, whenever somebody commits a crime against us, we should have the criminal process take care of it. As the Maine Supreme Court has said in the leading case, the criminal sanctions are available when an employers behavior is egregious. The employee should not have to go to private counsel with its attending counsel fees, and court cost to get relief. When the criminal process, that by the way is working to protect our employees is in place, when we last discussed this those who support this particular legislation admitted that there aren't many of these cases existing between employers and employees, and that's true. The reason there aren't many cases is that the criminal process is working to deter crimes committed by employers against employees. So what I would ask you to do please, is to consider defeating this type legislation. Not to water down the present process that we have because you know as well as I do, that if we move for criminal provisions into the Civil Law, a prosecutor might very well, knowing that law is on the books, hesitate to bring a criminal action against the employer waiting to see what the employee is

going to do in the civil action. I would in conclusion, suggest this as well. Suppose this law is on the books. There is an egregious criminal action or act against the employee by the employer, and a criminal case is brought under existing law. At the same time, or thereabouts, a civil action is brought. Under this law, should it go on the books, now you've got two actions brought against the employer. I can envision, as well as you, that criminal case will move along. The civil case is moving along. Let's say it's discovery, depositions, whatever. And in the criminal case the employer shows up in court with counsel and says, Judge, I want a continuance of my criminal case, my lawyer now is representing me in two actions. And Judge don't I have the right to the effective assistance of counsel and trial by jury in my criminal case. And the Judge with his or her salt will say, of course you do. You have every right to the effective assistance counsel in your criminal case. Well Judge look, my lawyer is all tied up in a civil suit, and isn't giving me effective assistance of counsel in my criminal case. I want a continuance. Now I know, and as you know perhaps, Judges have given continuances in criminal cases for a lot less than that. So what is going to happen if this is on the books is a further delay of the criminal process that is the process that's working to protect our employees from egregious criminal action occurring against them by the employer. I would ask you respectfully to give some weight to the Maine Supreme Courts view of the present situation. Which is that the criminal sanctions are available when an employers behavior towards an employee is egregious, and not to enact a measure that waters down the process that's working. Thank you Mr. President.

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

Senator **DOUGLASS:** Mr. President, women and men of the Senate, this matter is not as complicated as the good Senator from Franklin, Senator Benoit, would have you think. This is a simple matter. It is the case of immunity for an employer who commits acts that are criminal. Currently our Workers' Compensation Law, in order to take up all matters that occur, and effectuate injury in the workplace, currently that law immunizes employers. There are some limited instances in which employers should not have that immunity from civil prosecution. This proposed Bill lays out those intentional acts. Now those acts may result in criminal prosecution, and they ought to. They may not result in some instances in criminal liability. That is why this Bill is needed. Because no employer who commits such acts should be immunized from civil liability when they have committed either murder, gross sexual misconduct, or aggravated assault. We need this law to clarify our Workers' Compensation Laws. Thank You.

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

Senator **MILLS:** Mr. President, men and women of the Senate, when the good Senator from Franklin and I come tottering back for Welcome Back Day in the year 2029, 30 years from now, I'm going to remind him of the frequency and the vibrancy with which he and I argued this issue, this rather minor issue, we both hasten to add, over a succession of Sessions in this Chamber. I merely rise on this occasion to simply remind us all that the need for this statute arises really from an oversight in the drafting of the Workers' Compensation Laws. From about 1916 when they

passed the first law until sometime in the mid 1970's, we covered only injuries that occurred by accident, and for that reason an intentional act would never have been covered by Workers' Compensation, and conversely, the employer would never have been immunized from responsibility. This small Bill would go some distance toward rectifying the current inappropriateness of how the Workers' Compensation Law is drafted and would restore what is, in reality, an ancient rule going back to 1916. Thank you ladies and gentlemen. I urge you to vote for the pending motion, which is Ought to Pass.

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

Senator **BENOIT:** Thank you Mr. President. May it please the Senate, I would like to respond to the good Senator from Androscoggin, Senator Douglass' comment that we should not let employers off the financial hook. I would like to read to you what the Maine Supreme Court says on the subject because the Maine Supreme Court has spoken on that very point. In the case that I have been quoting, the argument was made that if injuries or death resulted from intentional acts, that if we left those in the Workers' Compensation Law, such as the present situation, employers would be allowed to engage in misconduct without being held financially responsible, and that is what Senator Douglass has just indicated. Here is what the Court says about that. We are unpersuaded that such a possibility should lead us to ignore the plain language of the Workers' Compensation Act. Criminal sanctions are available when an employers behavior is egregious. I would like to also make mention of one other particular. Lawyers in this Chamber and non lawyers alike know one fact of life when it comes to litigation. It is plainly that a civil case will take a lot longer to reach resolution than a criminal one. There is no question about it, we all know it. There are civil cases and that is what this law proposes to do for the employee, is to set up a civil action. Civil cases can go for months and even years before resolved. With attending counsel fees and expenses the employee must pay as the case moves along. Now in a criminal action, which reaches resolution much quicker, there is restitution for the employee to be made whole by a process that does not cost the employee one single penny of counsel fees. Not one single penny of the expenses in the suit. Why trade that, a process that is working, for a civil process that is going to cost more and take longer for employees to get relief. It doesn't make much sense to me. Thank you Mr. President.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Knox, Senator Pingree to Accept the Majority Ought To Pass As Amended Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#117)

YEAS: Senators: CAREY, CATHCART, DAGGETT, DOUGLASS, KONTOS, LAFOUNTAIN, LONGLEY, MICHAUD, MILLS, MURRAY, PARADIS, RAND, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BERUBE, CASSIDY, DAVIS, FERGUSON, GOLDTHWAIT, HARRIMAN, KIEFFER, KILKELLY, LIBBY, MACKINNON, NUTTING, O'GARA, PENDLETON, PINGREE, SMALL

ABSENT: Senator: RUHLIN

EXCUSED: Senator: MITCHELL

14 Senators having voted in the affirmative and 19 Senators having voted in the negative, with 1 Senator being absent, and 1 Senator being excused, the motion by Senator **PINGREE** of Knox to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **FAILED**.

Senator **PINGREE** of Knox, moved the Senate **RECONSIDERED** whereby **ACCEPTANCE** of the Majority **OUGHT TO PASS AS AMENDED** Report, **FAILED**.

On further motion by same Senator, **TABLED** until Later in Today's Session pending motion by same Senator to **RECONSIDERED** whereby **ACCEPTANCE** of the Majority **OUGHT TO PASS AS AMENDED** Report, **FAILED**.

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The Chair laid before the Senate the following Tabled and Later (5/7/99) Assigned matter:

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Joint Order - relative to Locating an on-site day-care center in the capitol complex  
H.P. 58

Majority - **Ought Not to Pass** (9 members )

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-443)** (4 members)

Tabled - May 7, 1999, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, May 6, 1999, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Joint Order **PASSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-443)**.)

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

Senator **PENDLETON** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

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

Senator **DAGGETT:** Thank you Mr. President. Members of the Senate, I will be opposing the Majority Ought Not To Pass Report.

This is merely an opportunity to allow some people to get together and take a look at locating a daycare center in the Capitol Complex. I think like responsible employers, that it is appropriate for State Government to take a look at what could be provided for employees. I think this is an appropriate action to take, and it certainly is not a particularly expensive one, but indicates governments willingness to set an example and be a good employer. So I hope that you will vote Against the pending motion and support Ought To Pass. Then we should have a chance. Thank you.

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

Senator **PENDLETON:** Mr. President. Men and women of the Chamber, I hope that you will Accept the Majority Ought Not To Pass Report. The Committee struggled with this issue, at length, and there are several problems that we felt necessitating our voting to Ought Not To Pass on this piece of legislation. One is that this is a study and it would require State monies to study a situation that would be of definite benefit to the Legislature because the on-site daycare study is not just for State employees, but also, for Legislatures as well. The other problem with the Bill, we felt, was the fact that one, the Resolution requires two members of the Senate who are familiar with operations, or have used daycare, so that certainly limits. And two, members of the other Body who are familiar with, or have used daycare centers. So that is limiting. I hope that you will look closely at this piece of legislation and vote for the Majority Ought Not To Pass Report. Thank you.

The Chair ordered a Division. 21 Senators having voted in the affirmative and 11 Senators having voted in the negative, the motion by Senator **PENDLETON** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, PREVAILED**.

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later (5/12/99) Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Require the State to Pay Medicare Costs for Retired State Employees and Retired Teachers"

H.P. 663 L.D. 919

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-358)** (9 members)

Minority - **Ought Not to Pass** (4 members)

Tabled - May 12, 1999, by Senator **LAFOUNTAIN** of York.

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

(In House, May 11, 1999, 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-358).**

(In Senate, May 12, 1999, Reports **READ**.)

Senator **MILLS** of Somerset 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 opened the vote.

**ROLL CALL (#118)**

YEAS: Senators: ABROMSON, AMERO, BENNETT,  
BERUBE, CAREY, CASSIDY, CATHCART,  
DAGGETT, DAVIS, DOUGLASS, FERGUSON,  
HARRIMAN, KILKELLY, KONTOS, LAFOUNTAIN,  
LIBBY, LONGLEY, MACKINNON, MICHAUD,  
MURRAY, NUTTING, O'GARA, PARADIS,  
PENDLETON, PINGREE, RAND, SMALL, TREAT,  
THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: BENOIT, GOLDTHWAIT, KIEFFER,  
MILLS

ABSENT: Senator: RUHLIN

EXCUSED: Senator: MITCHELL

29 Senators having voted in the affirmative and 4 Senators having voted in the negative, with 1 Senator being absent, and 1 Senator being excused, the motion by Senator **LAFOUNTAIN** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (H-358) **READ** and **ADOPTED**, in concurrence.

**LATER TODAY ASSIGNED FOR SECOND READING.**

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The Chair laid before the Senate the following Tabled and Later (5/19/99) Assigned matter:

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Revoke Voting Rights of Convicted Felons While they are in Prison

S.P. 545 L.D. 1607  
(C "A" S-172)

Tabled - May 19, 1999, by Senator **AMERO** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**, in **NON-CONCURRENCE**

(In Senate, May 7, 1999, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the **RESOLUTION PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-172).**)

(In House, May 12, 1999, Reports **READ** and **RESOLUTION** and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.)

(In Senate, May 17, 1999, on motion by Senator **BENNETT** of Oxford, **RECEDED FROM PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-172)**, Senate Amendment "A" (S-287) **READ**.)

(In Senate, May 19, 1999, **THE CHAIR RULED SENATE AMENDMENT "A" (S-287) NOT GERMANE**.)

Senator **BENNETT** of Oxford moved the Senate **INSIST** and **ASK FOR A COMMITTEE OF CONFERENCE**.

At the request of Senator **DAGGETT** of Kennebec a Division was had. 18 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator **BENNETT** of Oxford to **INSIST** and **ASK FOR A COMMITTEE OF CONFERENCE**, **PREVAILED**.

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later (5/13/99) Assigned matter:

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

H.P. 564 L.D. 785

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-357)** (6 members)

Minority - **Ought Not to Pass** (3 members)

Tabled - May 13, 1999, by Senator **PINGREE** of Knox.

Pending - **FURTHER CONSIDERATION**

(In House, May 11, 1999, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-357).**)

(In Senate, May 12, 1999, Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.)

(In House, May 13, 1999, that Body **ADHERED**.)

Senator **DOUGLASS** of Androscoggin moved the Senate **RECEDE** and **CONCUR**.

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

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

Senator **MILLS:** Mr. President. Men and women of the Senate, in order to remind you of the issue this Bill presents, it has to do with the first three days of mediation services that are available to public bargaining entities that is a town or a county. On the one hand, some municipal entity on the one hand, and a bargaining unit of labor on the other. Under current law those parties must share the expense of mediation down the middle. The Bill, if you chose to accept it, would have the State provide that service free of charge. It has a fiscal note of some \$20,000 to \$30,000 on the Bill. The reason that I oppose the Bill quite simply is that I think that having the parties have to pay down the middle for the services of mediation has a tendency too encourage them to resolve their dispute at an earlier stage. If there's mediation service available gratuitously from the State, at least three days of such services, then it has a tendency in my view to encourage either party that may seek delay in their bargaining negotiations to use mediation as a reason for postponing coming to consensus on the dispute. And for that reason I think it's good policy to leave the parties to be paying the rather modest fees that the State charges for this, admittedly, very valuable service. And for that reason I ask and request that we vote Against the current Recede and Concur motion, so that we can go on to Adhere. Thank you.

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

Senator **DOUGLASS:** Men and women of the Senate, Mr. President, this Bill permits towns and public workers to find a way to come into agreement. It is a method of reaching a compromise position that would not otherwise occur, because the State is paying it. I argue to you that it does not, in fact, delay agreement, but, in fact, promotes it because those who are in this position are, after agreement, going to be able to do the public's work. This has been a benefit to our State and to our communities. The amount of money that we pay as a State is small in comparison to the benefit that we receive. The amount of money that the parties put into the matter can make the difference between whether they are able to go to this next level of dispute resolution, or not. I argue to you that to the extent they cannot afford to pay those costs, failing to Enact this, or fund mediation services by the State promotes disharmony in our state. We should be in favor of harmony. I urge you to Recede and Concur.

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

Senator **LONGLEY:** Thank you Mr. President. Colleagues of the Senate, I'll be changing my vote this time around. The first time around when I heard the good Senator from Somerset talk about the importance of paying in and contributing, I completely agreed. And after my vote I realized, well if somebody has been unemployed because they have been hurt, that \$40 is a much harder hit into their wallet. If it would have been a sliding scale piece I could go for it, but as is, I'm going to change my vote and go along with the Recede and Concur for that reason. I'm all for co-payments, but \$40 when your not employed and if you have a family that is unaffordable.

On motion by Senator **DOUGLASS** of Androscoggin, 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 Somerset, Senator Mills.

Senator **MILLS:** Mr. President. Men and women of the Senate, I rise simply to correct, what I think may be, a misapprehension about the impact of the Bill. The mediation service that we are talking about would apply to bargaining between a bargaining unit, or an agent, a union on the one hand, and a municipality or a county government on the other. It would not apply to individual grievance arbitration, where there is a single individual, perhaps, who is in dispute with his employer. That is not my understanding of what this Bill covers. The mediation service that we are talking about here, is one that is afforded for contract dispute resolution between two entities, and not involving a single individual. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Douglass to Recede and Concur. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#119)

YEAS: Senators: CATHCART, DAGGETT, DOUGLASS, KONTOS, LAFOUNTAIN, LONGLEY, MICHAUD, MURRAY, PARADIS, PENDLETON, RAND, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BERUBE, CAREY, CASSIDY, DAVIS, FERGUSON, GOLDTHWAIT, HARRIMAN, KIEFFER, KILKELLY, LIBBY, MACKINNON, MILLS, NUTTING, O'GARA, PINGREE, SMALL

ABSENT: Senator: RUHLIN

EXCUSED: Senator: MITCHELL

13 Senators having voted in the affirmative and 20 Senators having voted in the negative, with 1 Senator being absent, and 1 Senator being excused, the motion by Senator **DOUGLASS** of Androscoggin to **RECEDE** and **CONCUR**, **FAILED**.

Senator **PINGREE** of Knox moved the Senate **RECONSIDER** whereby the motion by Senator **DOUGLASS** of Androscoggin to **RECEDE** and **CONCUR**, **FAILED**.

On further motion by same Senator, **TABLED** until Later in Today's Session pending motion by same Senator to **RECONSIDER** whereby the motion by Senator **DOUGLASS** of Androscoggin to **RECEDE** and **CONCUR**, **FAILED**.

The Chair laid before the Senate the following Tabled and Later (5/17/99) Assigned matter:

Bill "An Act to Clarify Free-lance Labor in an Employer/Employee Relationship"

H.P. 875 L.D. 1232  
(C "B" H-503)

Tabled - May 17, 1999, by Senator **PINGREE** of Knox.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-503)**, in **NON-CONCURRENCE**

(In House, May 12, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-502)**.)

(In Senate, May 17, 1999, **READ A SECOND TIME**.)

On motion by Senator **MILLS** of Somerset, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby Report "B", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-503)** was **ACCEPTED**.

Senator **LAFOUNTAIN** of York requested and received leave of the Senate to withdraw his motion to **ACCEPT REPORT "B", OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-503)**.

On motion by Senator **MILLS** of Somerset, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-502)** **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-502) **READ**.

On motion by Senator **MILLS** of Somerset, Senate Amendment "A" (S-319) to Committee Amendment "A" (H-502) **READ** and **ADOPTED**.

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

Senator **MILLS:** Mr. President. Men and women of the Senate, this is the Bill with greater complexity than significance. I must represent to you that it has involved a fair amount of discussion among many of us who have attempted to understand some of the arcane provision of the Unemployment Compensation Law. What has rescued all of us is that we have had it reviewed by Gail Thayer, over at the Unemployment Compensation Commission. She has given approval to it, and I'm confident that the draft that you now have in front of you will do the job for creating a little safe harbor for free lance writers, authors, and photographers who may be feeding their contributions to Weekly newspapers without fear of being eligible for Unemployment Compensation insurance, or more accurately, without having their newspapers or publishers

have to pay contributions toward their work. The exception, I think, is rather carefully drafted and meets with everyone's approval. Thank you Mr. President.

Committee Amendment "A" (H-502) as Amended by Senate Amendment "A" (S-319) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-502) AS AMENDED BY SENATE AMENDMENT "A" (S-319)** thereto, in **NON-CONCURRENCE**.

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later (5/17/99) Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Amend the Maine Workers' Compensation Act of 1992 as it Relates to Compensation for Amputation of a Body Part"  
H.P. 163 L.D. 225

Report "A" - **Ought to Pass** (6 members)

Report "B" - **Ought Not to Pass** (5 members)

Report "C" - **Ought to Pass as Amended by Committee Amendment "A" (H-500)** (1 member)

Tabled - May 17, 1999, by Senator **DOUGLASS** of Androscoggin.

Pending - motion by same Senator to **ACCEPT** Report "A", **OUGHT TO PASS**, in concurrence

(In House, May 17, 1999, Report "A", **OUGHT TO PASS READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

(In Senate, May 17, 1999, Reports **READ**.)

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

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

Senator **MILLS:** Mr. President, men and women of the Senate, this is another very small Bill that is the pet, if I may say so, of a member of the other Chamber who has devoted a great deal of time to analyzing whether it would be appropriate to pass a law that would require Workers' Compensation carriers, and employers, as the case may be, if they are self insured, to pay compensation on a schedule to those employees since 1992 who have suffered the physical amputation or loss of a body part. I opposed the Bill in Committee, and I oppose the Bill here today for several reasons. One is that the Bill is retroactive and would apply to injuries that have occurred since January 1, 1973. It would require employers, or carriers, to pay compensation on injuries for an element of the claim for which they never collected any premium. Because it is retroactive it does seem to me that it

violates a sense of fairness about the administration of the Workers' Compensation System. We always had a system back in the 70's and the 80's, where people who lost the use and function of a part of their body would be awarded a separate element of compensation for that loss. It was a cash award to reflect the fact that whether or not you had an earnings loss. If you loss the use and function of an arm, a finger, a foot, then certainly you were deserving of some measure of cash to be paid for whatever harm befell you. This was essentially eradicated by the Workers' Compensation Reform Bill of 1992 in the sense that, that benefit is now offset against any loss that you may have for weekly wages, and as a practical matter, when there is an injury of any seriousness the cash award for amputation or loss of use in function of the part of your body is simply not received because it is eaten up by your receipt of weekly benefits during the period of your outage and recuperation. So it doesn't really effectively exist under current law.

This Bill is an effort by one member of our Labor Committee to restore this benefit, at least for those who have lost physically, any member of the body. One of the problems with this method of looking at compensation for injuries is that it would not pay for the loss of use and function of a member unless you physically lost it. Which in today's world regrettably or not is an artificial distinction. Think about all the cases you have read about in the newspaper, or perhaps, been familiar with where somebody loses a finger, a hand, even an arm, in a tragic accident, and the member is found, reattached and brought back to some limited utility. In that instance there would be no cash award under the Bill. You would only be getting the award if that part of your body was utterly lost. It just strikes very arbitrary distinction among claims. There are so many people that do lose, through injury, the function of a part of their body, and it's a real and genuine loss, and yet it's not a physical detachment and those folks would not be entitled to make a claim. I may suggest to you that you could become even a quadriplegic under this Bill, and because your four key members, two legs and two arms are all physically attached to your body, it would not entitle you to a cash award under the Bill as framed. On the other hand, if you physically lost one of those limbs, you would get some sort of cash award for that physical detachment. My quarrel with the Bill is that it does not restore what we once had back in the 70's and the 80's. I will concede to you that to restore that system with any true benefit structure to it, would cost a fair amount of money. The Bill before you actually doesn't cost a great deal, but it is retroactive. It seems to me, and even if it were only prospective, if we were going to make some changes to this current Workers' Compensation System, it seems to me that we would not place this particular provision very high on the list of things to be fixed. There are other measures that have come before you this Session, and will come before you again. I will be recommending to you, cost of living adjustment is one of them, and adjusting the maximum benefit level to compensate to the Workers' Compensation benefits is the other. These are things that I think are more deserving of your consideration, and this one I urge you to oppose, not because of the merits of the situation, but because the change is in my judgment an imprudent one, and is simply not fair across the board. For that reason I urge you to vote Against the pending motion. Thank you.

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



Senator **DOUGLASS**: Men and women of the Senate. Mr. President, I urge you to pass this Bill. It is an act to provide compensation for those individuals who have lost actual body parts. There are 18 of them. There are 18 since 1993, who have had legs, arms, or in some cases both, severed and not found and reattached, but lost permanently. Now under our current Workers' Compensation Provision those individuals receive a payment for their lost wages. They do not receive payment for the loss of the body part. That is unjust. Hopefully there were enough papers to pass around to give you some of the statistics on this matter. The cost retroactively to pay the sum calculated under this Bill, L.D. 225, is no more than \$1,700,000. That is because some of the injuries were death. Those have been calculated, have already been paid under a death benefit. Some of the injuries that were listed by the Workers' Compensation Commission were loss of fingertips, and that is not compensable under this Bill. Under this Bill payment would be made at the rate, or a like sum would be made, as payment for the loss as it is now made for wage benefits. Now is that a fair figure? Perhaps not, but it is at least some payment, while today there is none. For those individuals, and I know that one of them suffered loss of both legs and an arm. These are individuals who work in some of the industries that are very important to us, but they have suffered and they deserve compensation. The cost of those injuries, I suggest to you, is not much in comparison to the ability of the owners and the Workers' Compensation Insurers that existed at the time of the injuries. It's not much in comparison to their ability to pay, but it is certainly a great portion of these individuals livelihood and lives. Similarly, for the future the amount that was calculated by the insurers that this might cost is \$800,000. In comparison to the harm suffered it's a relatively small sum. For the State the fiscal note is zero. That is important to bare in mind. These are injuries to individuals, and industries that have machinery that can gobble up a whole individual or electrocute them. These are injuries that are severe and their limbs will never be replaced. I ask your support for the individuals who have been harmed in this manner since 1993. There are not many of them, but they deserve our support. Thank you.

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

Senator **CASSIDY**: Thank you Mr. President. Men and women of the Senate, we had a similar Bill a few years ago, I remember, which was ultimately defeated in the process. I voted for the Bill that time, and I intend to vote for this Bill again. I want to tell you why. I certainly don't want to go back and change Workers' Compensation so bad that we start to drive business out of the state again, and so on and so forth. But this particular Bill, as was mentioned, we are talking about folks here who lose a limb or possibly more. I happen to have a constituent in my district, actually in the Portland Sunday Paper, I think a year ago this winter, there was quite a story about him taking his son out ice fishing and snowmobiling and the things that he did, and some of the limited work he can do. He lost both legs and one arm and this guy has prosthesis on all three limbs. It was just a story that you could see and it could give you some encouragement. We still have people in this state that have the energy and positive attitude, and did not let this thing beat them. I was so proud to know him and to have him living in my district. I had another former student of mine who lost a limb. This is a one time payment, and what is a limb worth? What if we lost both our legs

today and had to go through all that suffering and pain. And in this story that was in the paper that Sunday, it told about the pain that he has, sometimes every step he takes, he has pain. He overcame that and he dealt with that. He talked about some of the sores he gets and so and so forth. There are so many people that would probably buy a wheelchair and sit in it for 30 or 40 years, and this young man just wouldn't let it beat him. I think it is the least we can do, that when somebody loses a limb to have a one time payment. I don't think it is unreasonable. I know it isn't going to cost the State, but I don't want to cost business so much money that it puts them out of business. This would be a pretty serious thing if it happen to us. I'm going to continue to support this Bill this year. Thank you Mr. President.

On motion by Senator **DOUGLASS** of Androscoggin, 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 (#120)

YEAS: Senators: CAREY, CASSIDY, CATHCART, DAGGETT, DOUGLASS, LONGLEY, MICHAUD, PARADIS, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BERUBE, DAVIS, FERGUSON, GOLDTHWAIT, HARRIMAN, KIEFFER, KILKELLY, KONTOS, LAFOUNTAIN, LIBBY, MACKINNON, MILLS, MURRAY, NUTTING, O'GARA, PENDLETON, SMALL

EXCUSED: Senator: MITCHELL

13 Senators having voted in the affirmative and 21 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **DOUGLASS** of Androscoggin to **ACCEPT** Report "A", **OUGHT TO PASS**, in concurrence, **FAILED**.

Senator **LAFOUNTAIN** of York moved the Senate **ACCEPT** Report "C", **OUGHT TO PASS AS AMENDED BY COMMITTEE "A" (H-500)**, in **NON-CONCURRENCE**.

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

Senator **LAFOUNTAIN**: Thank you Mr. President. Men and women of the Senate, this Report "C" is similar to Report "A". However, unlike Report "A" it applies to injuries that occur on or after January 1, 1993. This Amendment applies to injuries occurring on or after January 1, 2000. It's prospective. Thank you.

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 Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#121)**

YEAS: Senators: CAREY, CASSIDY, CATHCART, DAGGETT, DOUGLASS, KILKELLY, KONTOS, LAFOUNTAIN, LONGLEY, MICHAUD, MURRAY, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BERUBE, DAVIS, FERGUSON, GOLDTHWAIT, HARRIMAN, KIEFFER, LIBBY, MACKINNON, MILLS, NUTTING, SMALL

EXCUSED: Senator: MITCHELL

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator LAFOUNTAIN of York to **ACCEPT** Report "C", **OUGHT TO PASS AS AMENDED BY COMMITTEE "A" (H-500)**, in **NON-CONCURRENCE, PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (H-500) **READ** and **ADOPTED**.

**TOMORROW ASSIGNED FOR SECOND READING.**

The Chair laid before the Senate the following Tabled and Later (5/19/99) Assigned matter:

Bill "An Act to Provide Access to Information Services in All Communities of the State"  
S.P. 665 L.D. 1887  
(C "A" S-300)

Tabled - May 19, 1999, by Senator **PENDLETON** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**

(In Senate, May 19, 1999, **READ A SECOND TIME**.)

On motion by Senator **PENDLETON** of Cumberland, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-300).

On further motion by same Senator, Senate Amendment "A" (S-321) to Committee Amendment "A" (S-300) **READ** and **ADOPTED**.

Committee Amendment "A" (S-300) as Amended by Senate Amendment "A" (S-321) thereto, **ADOPTED**.

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-300) AS AMENDED BY SENATE AMENDMENT "A" (S-321)** thereto.

Sent down for concurrence.

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

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

SENATE REPORTS - from the Committee on **LABOR** on Bill "An Act to Amend the Obligations of Direct Reimbursement Employers"

S.P. 139 L.D. 375

Majority - **Ought Not to Pass** (10 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-310)** (3 members)

Tabled - May 20, 1999, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, May 20, 1999, Reports **READ**.)

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

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

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

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:

**Emergency Measure**

An Act to Amend the Laws Relating to the Location of Lobster Trap Escape Vents

S.P. 835 L.D. 2236

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with no Senators having voted in the negative, and 29 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.

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**ORDERS OF THE DAY**

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

JOINT RESOLUTION - relative to recognizing the Bangor High School Math Team, winner of the Class A 1999 Annual Maine State Math Meet, and in extending our congratulations and best wishes to the team;

SLS 179

Tabled - May 20, 1999, by Senator **MURRAY** of Penobscot

Pending - **PASSAGE**

**READ.**

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

Senator **MURRAY:** Thank you Mr. President. Men and women of the Senate, I'm stalling just a little bit because there are some props being handed out that's important for all of you to look at. It depends upon whether you're allowed to have lunch today, and what time we Adjourn. Ladies and gentlemen of the Senate, I'm handing out to you a sample problem that was presented to the math participants in the State Math Meet. That is a meet that was held last month in which about 95 schools throughout the state participated, and each of those schools had approximately 10 members on the team. They were presented with issues and questions like, I hope you now have before you. I must confess that I was a former math major in college and I spent approximately four to five minutes on this and gave up. That is how rusty I have become. But these fine individuals, that are here today with us, had not only the fortitude to solve these problems and others, but did so in an exemplary way, in such a way that they ultimately became the math Champions for the State of Maine. Not only were they champions for the State of Maine for this year, but this same team from Bangor High School, has been the State Math Champs for the last four years in a row. I'm honored to invite the math team down here today because we often times, rightly so I would say, invite champions of all types of sports teams and other achievements here to recognize those fine achievements. And sometimes we don't often focus on some of the other achievements that our students are accomplishing these days. I thought the math accomplishment that these students accomplished was something that needed special attention, and I'm very proud of what they've done. I'm very proud of the program that has been put in place, that accomplishes from year to year the kinds of results that you see before you. I hope the good Senator from Aroostook, Senator Kieffer, will allow me just a little tweak, and a bit of gloating to note that Bangor High School eeked out the Maine School of Math because they came

in second, a close call. They are especially talented students today, and they deserve our support, and I would hope that you will join with me in supporting the measure that is before the Senate.

**PASSED.**

**THE PRESIDENT:** The Chair is pleased to recognize in the Gallery the Bangor High School Math Team, winners of the Class A 1999 Annual Maine State Math Meet. Would they please rise and receive the greetings of the Senate.

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

JOINT RESOLUTION - relative to recognizing the Bangor High School Jazz Choir, who won the 1999 Maine State Vocal Jazz Festival, Division I Jazz Choirs, on April 10, 1999. We extend our congratulations and best wishes to them on their achievement;

SLS 180

Tabled - May 20, 1999, by Senator **MURRAY** of Penobscot.

Pending - **PASSAGE**

**READ.**

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

Senator **MURRAY:** Thank you Mr. President. Men and women of the Senate, I again take great pleasure in rising on Bangor High School State Championship Day. To recognize another group of students who are here representing the Vocal Jazz Choir. I was fortunate a couple of weeks ago, the City of Bangor has a concert where all of the public school students gather from literally grades three right through the high school to perform in front of the citizens of Bangor. It has become such a big event. This year they had to have it literally at the Bangor Auditorium. Not only did they have it at the Bangor Auditorium, but the crowd that was gathered numbered in the range of about 3,000 people to hear this great concert. Part of which included a presentation by the vocal jazz group that is here today. I think it speaks well for, not only Bangor, it obviously speaks well for the students that are here in whom we take great pride. It speaks well for all of us in Maine to be able to recognize the great talents and the great gifts, and what makes up a wonderful education in this state of Maine. It's a type of education that we want to have for all of the communities in the state, and it's certainly one that I'm pleased can occur in the City of Bangor. Specifically with regard to the group here, I want to note that this group was only formed four years ago, and has already risen to the top, and the cream of the crop for the state of Maine. They are an incredibly talented group and we are certainly fortunate to have them here with us today, and fortunate that they are part of the group that we call the citizenry of Maine. And I urge your support on the pending motion.

**PASSED.**

**THE PRESIDENT:** The Chair would note the presence of the Bangor High School Jazz Choir in the Gallery and will direct the Senate staff to escort the jazz choir to the Well of the Senate so that they may address the Senate in the manner they see fit.

(The Bangor High School Jazz Choir performed for the Senate.)

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Off Record Remarks

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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:

**Emergency Measure**

An Act to Clarify Roles and Responsibilities in the Child Development Services System

H.P. 931 L.D. 1308  
(C "A" H-525)

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

Senator **LIBBY:** Thank you Mr. President. Men and women of the Senate, 7-1 on Supplement 14 is the Act to Clarify the Roles and Responsibilities of the Job Development Services System, which we've talked about a few times in this Chamber. As you know, as the Bill is currently comprised that the Committee Amendment is of great concern, not just to me, but to parents, to providers in your district, and to a lot of other folks who have children with special needs. All I ask you today is to consider again. Maybe you have had some phone calls from some providers of services in your district, some speech therapists, and others who may be concerned about this item. If you have done your research and your homework you will find out that there are a lot of folks in the provider community that are extremely concerned about this Bill. I just want to again reiterate why.

The main reason why this Bill presents a problem in the provider community is because it is a movement toward employing a lot more folks on the State roles to provide these services, rather than have private providers provide these services. Big change. Two different areas here to discuss. One is the movement into the schools. As you know, at the work session, not at the public hearing, the Department brought forward a provision to start ten demonstration sites around the state, and move these services into the schools. I'm very concerned that the eventual result of that will be a lot of these services provided exclusively down the road. A lot of providers are concerned that this is precisely the direction we are headed, so they are opposed to this Bill on those grounds. Some others though, I must be fair, other providers see some good things about moving these services into the schools. What they don't like is the fact that parents don't have a choice in the matter. For some reason the Committee Bill has decided that parents are not

going to get the right to keep their kids with a current therapist. They're going to be asked to send their kids to the local schools, these are Pre-K kids, to the local schools to get the services that we are talking about at the demonstration sites.

The other concern here is more of a general nature, and that is in terms of the funding formula that is being advanced by this Committee Amendment. The funding formula does not provide accountability for either, we here in the State Senate, or in any other Body of the Legislature, and I'm concerned about that. One, in that it provides an 8% provision that allows the Child Development Services Group to withhold potentially over one million dollars of support that should be going to the sites. Two, that it will continue the sites and work towards having these school sites, which would really be I think, kind of a double whammy to our local providers. Problem being that private providers are being put out of work because of Bills like this. For example, yesterday on the telephone I got a call from a constituent who said I just wanted to call you Senator Libby to find out if I'm going to have a job tomorrow. This is the President of Maine Speech and Hearing Impaired. Many of you know her, she over the years has fought Child Development Services because she is concerned that the State will take over these functions and have State employees providing them, rather than having folks in an office providing services on a private basis. Funded by Medicaid, no problem there. I prefer that we have a system like we do at the local level where, for example let's take the system that we have for Doctors, provision of medical services. You can go to a general practitioner in your hometown or near by and get services that you need from a family practitioner. The same here, unfortunately, the trend is moving away from the family practitioner and the Child Development Services System and more toward a controlled environment that the State will run. If you have been paying any attention, for example, to the Sunday newspaper. If you have been looking in the help wanted ads, you will see that week after week, the Child Development Services System is putting out ads to ask for new employees for these therapies, and that's okay in the rural areas. If there is a rural county that doesn't have enough therapists, that's when the State should come in and say, hey look, we need to provide extra services here because we don't have enough private providers. I understand now we need that. Unfortunately, what's happening is that is going on down in my neck of the woods. York and Cumberland Counties, for example, where they are employing people. It cost in terms of overhead, I invite you to visit the sites. My site is in Arundel. The Cumberland County site is in Portland. What it is doing is pushing slowly but surely these folks right out of business. Is that what we really want? Do we want the state to employ all of the therapists in this system. I don't think so. We are not there yet, don't get me wrong. It's a low percentage of therapists; that are currently employed by the State, or by these local sites. The 15 sites scattered about the state. But we are moving in that general direction. I really think we ought to hold on a minute, and take another year to reconsider. I would have loved to have seen this thing Recommitted. There were a couple of good Amendments offered, one made it, then it was stripped. Some good people lobbying for this Bill, don't get me wrong, there are some good provisions in the Bill it just needs more time. I don't want to see my private providers pushed out of business. There is an Emergency Enactor on this. Again my question is this, If the Department didn't have the major policy shift in the original Bill, how was it that they are now asking for an Emergency call. That doesn't make sense, and as you know,

there has been some administrative problems over there. I hope you'll join me in opposing this measure. Thank you very much.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#122)**

YEAS: Senators: ABROMSON, AMERO, BERUBE, CAREY, CATHCART, DOUGLASS, HARRIMAN, KILKELLY, KONTOS, LAFOUNTAIN, LONGLEY, MACKINNON, MICHAUD, MILLS, MURRAY, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: BENNETT, BENOIT, CASSIDY, DAGGETT, DAVIS, FERGUSON, GOLDTHWAIT, KIEFFER, LIBBY, NUTTING

EXCUSED: Senator: MITCHELL

This being an Emergency Measure and having received the affirmative vote of 24 members of the Senate, with 10 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.

**Emergency Measure**

An Act Concerning Disposal of Solid Waste from Decommissioning Activities

S.P. 515 L.D. 1516  
(C "A" S-285)

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with no Senators having voted in the negative, and 28 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 Measure**

An Act to Increase Accessibility to the Department of Environmental Protection Clean-up Funds for Businesses

S.P. 641 L.D. 1823  
(C "A" S-286)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 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 Measure**

An Act to Revise Certain Provisions of the Fish and Wildlife Laws  
S.P. 738 L.D. 2088  
(C "A" S-292)

On motion by Senator **KILKELLY** of Lincoln, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-292).**

On further motion by same Senator, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-292).

On further motion by same Senator, Senate Amendment "A" (S-322) to Committee Amendment "A" (S-292) **READ** and **ADOPTED.**

Committee Amendment "A" (S-292) as Amended by Senate Amendment "A" (S-322) thereto, **ADOPTED.**

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-292) AS AMENDED BY SENATE AMENDMENT "A" (S-322)** thereto, in **NON-CONCURRENCE.**

Sent down for concurrence.

**Emergency Resolve**

Resolve, Regarding Legislative Review of Chapter 20: Forest Regeneration and Clearcutting Standards, a Major Substantive Rule of the Department of Conservation

H.P. 883 L.D. 1240  
(C "A" H-552)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** 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:

**ENACTORS**

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

**Acts**

An Act to Amend the Drug Laws Related to Possession of a Firearm

S.P. 39 L.D. 49  
(C "A" S-278)

An Act to Amend the Maine Criminal Justice Academy Requirements for Candidates for Sheriff

H.P. 139 L.D. 201  
(C "C" H-560)

An Act to Reconcile Minor Technical Differences between Forest Practices Laws and Rules

H.P. 299 L.D. 407  
(C "A" H-551)

An Act to Require That Workers' Compensation Coverage Be Equitably Applied to the Timber Industry

S.P. 248 L.D. 670  
(C "A" S-269)

An Act to Ensure a Fair Distribution of Hunting Permits

H.P. 970 L.D. 1368  
(H "A" H-585 to C "A" H-567)

An Act to Allow Cutting of Trees in the Shoreland Zone Under Certain Conditions

H.P. 1036 L.D. 1458  
(C "A" H-481)

An Act Governing Privileged Communications between Victims of Crimes and Governmental Victim Witness Advocates

H.P. 1174 L.D. 1685

An Act to Ensure Prompt Payment of Unemployment Compensation Benefits to Displaced Workers

S.P. 638 L.D. 1805  
(S "A" S-267 to C "A" S-216)

An Act to Provide Continuing Financial Support for the Maine Community Policing Institute at the University of Maine at Augusta

H.P. 1326 L.D. 1909  
(C "A" H-559)

An Act to More Accurately Describe the Criminal Conduct Committed When a Person Grows or Cultivates Marijuana

H.P. 1407 L.D. 2012  
(C "A" H-561)

An Act to Simplify the Rule of Reasonable Belief in the Maine Criminal Code

H.P. 1411 L.D. 2018

An Act to Amend the Laws Relating to Issuance of a Warrant in the Name of the District Court

H.P. 1424 L.D. 2031

An Act to Bring Certain Criminal Code Provisions Addressing Fines Into Conformity with Recently Amended Criminal Code Provisions Addressing Restitution

H.P. 1491 L.D. 2129

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

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An Act to Implement the Recommendations of the 118th Legislative Joint Select Committee to Implement a Program for the Control, Care and Treatment of Sexually Violent Predators

S.P. 111 L.D. 308  
(C "A" S-279)

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

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An Act to Criminalize Internet Dissemination of Child Pornography

H.P. 1116 L.D. 1575  
(C "A" H-418; H "A" H-600)

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

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An Act to Amend the Liability Limit under the Maine Tort Claims Act

H.P. 1118 L.D. 1577  
(C "A" H-565)

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

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An Act to Ensure that Displaced Workers Have Access to Appropriate Job Training, Education and Employment Services through a Peer Support Program

S.P. 594 L.D. 1718  
(C "A" S-242)

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

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An Act Regarding Long-term Care

H.P. 1582 L.D. 2231

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

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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:

**Emergency Resolve**

Resolve, to Establish the Commission to Study Alternative Uses for Unused Maine Youth Center Land and Buildings

H.P. 1478 L.D. 2118  
(H "A" H-587 to C "A" H-558)

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

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**Mandate**

An Act to Release Juvenile Crime Records to School Personnel  
S.P. 578 L.D. 1658  
(C "A" S-277)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, 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.

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**Acts**

An Act to Prohibit the Employment of Professional Strikebreakers  
H.P. 756 L.D. 1046  
(C "A" H-484)

An Act Requiring Doctors Giving 2nd Opinions in Workers' Compensation Cases to be Certified  
S.P. 350 L.D. 1054  
(S "A" S-275)

An Act to Facilitate the Establishment of Trail Easements  
H.P. 1340 L.D. 1923  
(C "A" H-563)

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

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Off Record Remarks

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On motion by Senator **PINGREE** of Knox, **RECESSED** until 7 o'clock in the afternoon.

After Recess

Senate called to order by the President.

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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 As Amended**

Bill "An Act to Require the State to Pay Medicare Costs for Retired State Employees and Retired Teachers"  
H.P. 663 L.D. 919  
(C "A" H-358)

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

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

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

Bill "An Act to Clarify the Standard for Cause in the Request for Proposal Process for the Department of Mental Health, Mental Retardation and Substance Abuse Services"

H.P. 692 L.D. 959  
(C "A" H-229)

In Senate, May 7, 1999, **PASSED TO BE ENACTED**, in concurrence.

**RECALLED** from the Governor's Desk, pursuant to Joint Order (H.P. 1588), in concurrence.

Comes from the House, Bill and accompanying papers **COMMITTED** to the Committee on **HEALTH AND HUMAN SERVICES**, in **NON-CONCURRENCE**.

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

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

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

Resolve, to Establish the Citizens' Advisory Committee to Secure the Future of Maine's Wildlife and Fish

S.P. 725 L.D. 2045  
(C "A" S-254)

In Senate, May 11, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-254).**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-254) AND HOUSE AMENDMENT "A" (H-639), in NON-CONCURRENCE.**

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

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, to Increase Reimbursement for Chiropractic Manipulation under the Medicaid Program

H.P. 1313 L.D. 1896

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-602).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-602) AS AMENDED BY HOUSE AMENDMENT "A" (H-625)** thereto.

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

**READ ONCE.**

Committee Amendment "A" (H-602) **READ.**

Senator **PINGREE** of Knox, moved to **TABLED** until Later in Today's Session pending **ADOPTION** of Committee Amendment "A" (H-602). Subsequently, the same Senator requested and received leave of the Senate to withdraw her motion to **TABLE** until Later in Today's Session.

House Amendment "A" (H-625) to Committee Amendment "A" (H-602) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-602) as Amended by House Amendment "A" (H-625) thereto, **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

The Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Allow Horse Racing Commencing at Noon on Sundays" H.P. 749 L.D. 1039

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-526).**

Comes from the House with the Report **READ** and **ACCEPTED.** Committee Amendment "A" (H-526) **READ** and **RULED NOT GERMANE** and the Bill **PASSED TO BE ENGROSSED.**

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

**READ ONCE.**

Committee Amendment "A" (H-526) **READ.**

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session pending **ADOPTION** of Committee Amendment "A" (H-526), in **NON-CONCURRENCE.**

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committees on **HEALTH AND HUMAN SERVICES** and **EDUCATION AND CULTURAL AFFAIRS** on Resolve, to Implement the Recommendations of the Task Force to Study Strategies to Support Parents as Children's First Teachers

H.P. 689 L.D. 956

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-623).**

Signed:

Senators:

PARADIS of Aroostook  
BERUBE of Androscoggin  
MURRAY of Penobscot  
SMALL of Sagadahoc

Representatives:

KANE of Saco  
BROOKS of Winterport



FULLER of Manchester  
QUINT of Portland  
DUGAY of Cherryfield  
WILLIAMS of Orono  
RICHARD of Madison  
DESMOND of Mapleton  
BRENNAN of Portland  
BAKER of Bangor  
SKOGLUND of St. George  
WATSON of Farmingdale

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-624).**

Signed:

Senator:  
MITCHELL of Penobscot

Representatives:  
LOVETT of Scarborough  
BRAGDON of Bangor  
SNOWE-MELLO of Poland  
SHIELDS of Auburn  
WESTON of Montville  
STEDMAN of Hartland  
ANDREWS of York  
BELANGER of Caribou

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-623)** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-623).**

Reports **READ.**

Senator **PINGREE** of Knox moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-623)** Report, in concurrence.

On motion by Senator **ABROMSON** of Cumberland, **TABLED** until Later in Today's Session pending motion by Senator **PINGREE** of Knox to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-623)** Report, in concurrence.

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

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Senate at Ease.

Senate called to order by the President.

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**ORDERS OF THE DAY**

The Chair laid before the Senate the following Tabled Unassigned matter:

Bill "An Act to Enhance Harness Racing in the State"  
H.P. 1438 L.D. 2061

Tabled - March 30, 1999, by Senator **PINGREE** of Knox.

Pending - **REFERENCE**

(In House, March 25, 1999, **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** and ordered printed.)

On motion by Senator **PINGREE** of Knox, the Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE.**

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later (5/17/99) Assigned matter:

Bill "An Act to Establish the Maine Dental Education Loan Program"  
H.P. 1367 L.D. 1965  
(C "A" H-406)

Tabled - May 17, 1999, by Senator **PINGREE** of Knox.

Pending - **FURTHER CONSIDERATION**

(In Senate, May 7, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-406)**, in concurrence.)

(In House, May 14, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-406) AND BY HOUSE AMENDMENT "A" (H-581)**, in **NON-CONCURRENCE.**)

On motion by Senator **PINGREE** of Knox, the Senate **RECEDE** from **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-406).**

House Amendment "A" (H-581) **READ.**

On motion by Senator **PINGREE** of Knox, under unanimous consent on behalf of President **LAWRENCE** of York, Senate Amendment "A" (S-324) to House Amendment "A" (H-581) **READ** and **ADOPTED.**

House Amendment "A" (H-581) as Amended by Senate Amendment "A" (S-324) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-406) AND HOUSE AMENDMENT "A" (H-**

**581) AS AMENDED BY SENATE AMENDMENT "A" (S-324)**  
thereto, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

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

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

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

After Recess

Senate called to order by the President.

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Ban Partial Birth Abortion"

I.B. 1 L.D. 1593

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

Signed:

Senators:

LONGLEY of Waldo  
TREAT of Kennebec  
BENOIT of Franklin

Representatives:

THOMPSON of Naples  
BULL of Freeport  
LaVERDIERE of Wilton  
MITCHELL of Vassalboro  
JACOBS of Turner  
NORBERT of Portland  
SCHNEIDER of Durham

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-627)**.

Signed:

Representatives:

PLOWMAN of Hampden  
MADORE of Augusta  
WATERHOUSE of Bridgton

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-627)**.

Reports **READ**.

Senator **LONGLEY** of Waldo moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

On motion by Senator **BENNETT** of Oxford, 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 (#123)**

YEAS: Senators: ABROMSON, AMERO, BENOIT, CATHCART, DAGGETT, DOUGLASS, GOLDTHWAIT, HARRIMAN, KILKELLY, KONTOS, LONGLEY, MILLS, NUTTING, PENDLETON, PINGREE, RAND, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: BENNETT, BERUBE, CAREY, CASSIDY, DAVIS, FERGUSON, KIEFFER, LAFOUNTAIN, LIBBY, MACKINNON, MURRAY, O'GARA, PARADIS, RUHLIN

ABSENT: Senators: MICHAUD, SMALL

EXCUSED: Senator: MICHAUD

18 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 2 Senators being absent, and 1 Senator being excused, the motion by Senator **LONGLEY** of Waldo to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, PREVAILED**.

Sent down for concurrence.

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**ORDERS OF THE DAY**

The Chair laid before the Senate the following Tabled and Later (5/17/99) Assigned matter:

An Act to Strengthen Maine's Research and Development Capacity in Renewable Energy Resources

H.P. 1152 L.D. 1649  
(C "A" H-523)

Tabled - May 17, 1999, by Senator **BENNETT** of Oxford.

Pending - **ENACTMENT**, in concurrence

(In Senate, May 12, 1999, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-523)**, in concurrence.)

(In House, May 14, 1999, **PASSED TO BE ENACTED**.)

Senator **BENNETT** of Oxford moved the Bill and accompanying papers be **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

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

Senator **BENNETT:** Thank you Mr. President. Fellow members of the Senate, I really do this very reluctantly. I have a tremendous amount of respect for Committee Reports, particularly those of the unanimous sort. I do this only because I serve on the Joint Select Committee on Research and Development. This Bill came jointly referred to us and the Committee on Utilities and Energy. After Public Hearing and Work Session we actually moved this to the Utilities Committee. I was hopeful at the time that the Utilities Committee would dispense with it. And they did do a good job in dispensing with a significant portion of it, but I wanted to draw this to your attention because I frankly think this Bill has the promise of being one of those sorts of things that we Enact in the Legislature with the best of intentions and then about 90 days after adjournment, when it becomes law, people start wondering why we did this. I thought it in the best interest of us just to discuss it briefly.

This Bill, as it was originally constituted, would have set up a one-million dollar General Fund. A special fund that would be available to match with a check off, a voluntary check off on peoples electric bills from their utility in this state. Those monies, the amount that people would voluntarily contribute, in addition to their electric payment, and the money that would match it from this fund would actually then go to fund a research and development capacity in renewable energy resources. The Utilities Committee, I think, wisely decided not to fund this with General Fund money. But what remains here is the match. Not the match, but the actual voluntary contribution. So if we Enact this Bill. What we're doing is we're setting up a system whereby people will get an electric bill, there will be a voluntary check off, not unlike the chick-a-dee check off or those that we see on our tax forms, on their electric bill, which will allow them to contribute extra money to this fund, then we are suppose to get this money, however much that may generate, and I frankly don't think it's going to be a lot, and we are supposed to apply it to renewable energy research and development.

I think that research and development in this area is a good thing. I don't think that this is the way to do it. I think if we are to

do this, that we ought to make a serious commitment out of it, and not just sort of wave a wand and say, well if people want to contribute to this, than this is a good mechanism to do it. It just seems to be that this is a strange, at best, idea and maybe it was just a silly idea. I, for one, thought it not in the best of public policy to do this. So for that reason I present this to you tonight, and again, with respect for the work of the two Committees who have seen this Bill, and suggest that we may want to Indefinitely Postpone this Bill. And so I present it therefore, and ask for your favorable consideration of my motion. Thank you.

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

Senator **KONTOS:** Thank you Mr. President. Men and women of the Senate, the good Senator from Oxford made some legitimate points about this Bill and does give you the historical perspective of what's happened to it in terms of going to two Committees, both of which I serve on. The Research and Development Committee thought, as the Senator said, that this had some value. It had merit in terms of the research and development capacity of the State. Knowing that we didn't have all the kinds of money to fund these sorts of projects, and that this had merit. However, the Research and Development Committee felt there were technical issues involved with renewable energy that ought to go more appropriately to the Utilities Committee, and they did as the good Senator said, which is to refine the Bill even further. I share his concern that there is no major appropriation. And if we had more revenues to put into this direction, I think there would have been a fair amount of agreement to direct some of it to the Renewable Energy Fund. Regrettably, there is not. This did not become a priority for the Research and Development Committee, and clearly the Utilities Committee felt uncomfortable seeking General Fund Dollars to support it. However, they did see that there was merit in looking at a Renewable Energy Fund. If you look at the Bill you will see that it is designed to fund demonstration community projects using renewable energy technologies. Now that may not seem like it's such a major issue for us now where we have reduced energy costs in some parts of the state, and we're not standing in line to buy gasoline or worry about getting heating oil, but in the last decade those were not the situations that we were dealing with. And the notion of renewable energy has always been part of the State's energy policy in terms of a worthwhile goal. The monies collected through peoples voluntary contribution would then be put toward a fund that would be administered by the State Planning Office to those projects that would be through non-profit organizations, consumer owned electric cooperatives, community based non-profits, and community action programs who would then take a look at these sorts of experimental or demonstration projects that could take place in a community. It could be anything from wind power, to battery operated, to any kinds of the renewable energy projects that would be a demonstration project. In addition, the State Planning Office can seek additional funds. So if there were funds available through the Department of Energy at the Federal level, sometimes the Department of Defense, sometimes through the National Science Foundation, the State Planning Office could, in fact, through language in this Bill make application to those other funding sources, and contribute to this fund. While there are weaknesses in it, as the good Senator described to you, I think the Bill has merit. I think it does match our long-term energy policy. I think the fact that both Committees looked at it, and saw

merit in it, there was not major objection other than the one you heard voiced by the good Senator. I hope you defeat the pending motion. And Mr. President, I would ask for a Roll Call.

On motion by Senator **KONTOS** of Cumberland, 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 (#124)**

YEAS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, CASSIDY, DAVIS, FERGUSON, GOLDTHWAIT, HARRIMAN, KIEFFER, LIBBY, MILLS

NAYS: Senators: BERUBE, CAREY, CATHCART, DAGGETT, DOUGLASS, KILKELLY, KONTOS, LAFOUNTAIN, LONGLEY, MACKINNON, MICHAUD, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

ABSENT: Senator: SMALL

EXCUSED: Senator: MITCHELL

12 Senators having voted in the affirmative and 21 Senators having voted in the negative, with 1 Senator being absent, and 1 Senator being excused, the motion by Senator **BENNETT** of Oxford to **INDEFINITELY POSTPONE** the Bill and accompanying papers, **FAILED**.

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

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The Chair laid before the Senate the following Tabled and Later (5/10/99) Assigned matter:

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Amend the Laws Regarding when A Merchant Must Remit Sales Tax"

H.P. 306 L.D. 422

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-393)** (11 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-394)** (2 members)

Tabled - May 10, 1999, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, May 7, 1999, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-393)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-393).**)

(In Senate, May 10, 1999, Reports **READ**.)

Senator **RUHLIN** of Penobscot moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-394)** Report, in **NON-CONCURRENCE**.

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

Senator **RUHLIN:** Thank you Mr. President. Ladies and gentlemen of the Senate, what this Committee Amendment attempts to do is introduce and maintain a level of equality and fairness in our Sales Tax System. Some years ago, during our economic trials and tribulations, we went to a system called the Sales Tax Push. You've heard of the Educational Push, a few other pushes, we also have what we call the Sales Tax Push. This is an attempt to go back and right that, which I felt at the time, and still feel it is wrong. Just so you will be familiar with what we did and how it works is, before that time if you were a retailer you reported your monthly sales at the end of the month. The 15<sup>th</sup> of the month you turn the report into the State Tax Office with what you sold by the 30<sup>th</sup> of the previous month and the check for that amount. We needed the money. They wanted to push. What the push said is, if you're Sales Tax liability is going to average \$250,000 a year for the state of Maine, your a big retailer, and we can get some extra money out of you ahead of time, and here is how we will do it. We will have you, at the 15<sup>th</sup> of the month, estimate what your going to sale for the rest of the month, and thank you very much, send the check in before you sell it. Well this is really nothing more than a scheme to speed up the collection of Sales Taxes. So Amendment "B" is an honest attempt to eliminate these estimated payment schemes. And, as I said, it directly impacts retailers with the annual tax liability of \$250,000. I think it's a way to reach out, without a large fiscal note, without any fiscal note frankly, over an annual period and say to the businesses in the State of Maine, we want to go back and have you consider State Government fair. We want you to know that we want to be a little more friendly, and because of that we will change our law, and we will have a so-called Committee Amendment "B" on the log of the State of Maine. I hope you will support the Committee Amendment.

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

Senator **DAGGETT:** Thank you Mr. President and Members of the Senate. I appreciate the description of the motion that is in front of you, and hope that you will be voting Against that so we can have an opportunity to support the original intention of this Bill. The collection of Sales Tax prior to the end of the month by the large retailers that, in fact, the law I believe states that they submit over \$250,000 of Sales tax in a year puts them into a particular category. It's only a part of the issue that affects the retail lumber dealers who would be affected by the Bill itself. The lumber dealers, the small independent lumber dealers, are somewhat of a unique group who end up extending their own

credit on sales because they deal with our local contractors, and our local people who need to have some credit extended in order for them to continue to be in business. As you know, large construction projects frequently do not have the money freed up until the end of the project, and so those sub contractors and others frequently do not have the money to pay the small independent lumber and building materials retailers until somewhat into the project. They have a particularly unique situation, in that they are protected under Lean Law protection.

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

Senator **RUHLIN:** The point of order is that we have before us Committee Amendment "B". The present comments are not addressed to the item before us.

**THE PRESIDENT:** The Senator from Kennebec, Senator Daggett, may proceed.

Senator **DAGGETT:** Thank you. I thank you for reminding me that I had somewhat strayed from the particular issue that is in front of us. I kind of wandered there because the Amendment had gotten so far from the original intention of the Bill, and I was concerned that some of our local Maine people may have missed the point here. But in the chance that we do defeat the motion on the floor, I would be more than happy to explain further so that we could take a look at helping those people who the Bill was originally intended to help. Thank you.

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

Senator **MILLS:** Mr. President, men and women of the Senate, I join with the Chair of Taxation, the Senator from Penobscot, in requesting that you consider carefully and Adopt, if you will, Report "B". It has no fiscal note, unlike another Report, it will accomplish something beneficial for Maine businesses as the good Senator described. Right now if you are a large retailer you have to estimate all of your sales taxes for the month, before the 20<sup>th</sup> of the month, and remit the money on the 20<sup>th</sup> of the month, or you are considered late. Even though you haven't made the sales for the last third of the month upon which the tax is based. In other words, it's a tax upon a hypothetical series of sales. I can't even understand completely why this gimmick that was passed some years ago, actually had any benefit. It must have done something at the end of some fiscal year in order to balance a Budget. But really in a Sales Tax arena, it is highly inappropriate, it seems to me, to require people to pay a tax on sales that haven't even occurred yet. We are informed by those who write fiscal notes, and the good people in the Tax Bureau, that by putting this date back to the 30<sup>th</sup> of the month, so that you actually pay the tax on the basis of the actual sales, on the day when the sales, all of those sales have been finally made, that rectifying this gimmick won't cost anything as a state in the sense that it will have to go to the Appropriations Committee for Tabling. That it is a neutral thing to do. It will benefit all major Sales Tax payers in this state, and it will accomplish something. That is the reason the good Senator from Penobscot and I signed on to Report "B". The Bill, unfortunately, as it came to us had a worthy cause behind it, but it will have a huge fiscal note if it is passed. We felt that it won't achieve what the Sponsors wanted it to

achieve. So we thought we would take advantage of this opportunity, of this Bill, of the title, and of the discussion that we had on this subject matter to accomplish something for Maine businesses. That's the reason behind Report "B" and we urge your careful consideration and Adoption of it. Thank you.

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

Senator **KILKELLY:** Thank you Mr. President. Men and women of the Senate, as one of the sponsors of this Bill, I can assure you that it did come forward with a very good intention. And with the intent of, in fact, satisfying a need that had been brought to us, not just this year, but in previous years. The fact that it had a fiscal note was not, in fact, part of the discussion around the creation of the Bill, and is not, in fact, the basis of whether we are developing fair policy or not. A fiscal note rises and falls on its own merit, and may in fact, bring down very good legislation. That is not a reason to go forward with this particular Report and avoid a discussion that I believe needs to happen on the original intent of the Bill, which we can get to if you, in fact, Defeat the current motion. Thank you.

The Chair ordered a Division. 13 Senators having voted in the affirmative and 20 Senators having voted in the negative, the motion by Senator **RUHLIN** of Penobscot to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-394)** Report, in **NON-CONCURRENCE**, **FAILED**.

The Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-393)** Report **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-393) **READ** and **ADOPTED**, in concurrence.

**TOMORROW ASSIGNED FOR SECOND READING.**

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

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Senate at Ease.

Senate called to order by the President.

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The Chair laid before the Senate the following Tabled and Later (5/7/99) Assigned matter:

Bill "An Act to Update, Clarify and Amend Licensure Requirements for Occupations and Professions and Registrations"

S.P. 720 L.D. 2042  
(C "A" S-214)

Tabled - May 7, 1999, by Senator **PINGREE** of Knox.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**

(In Senate, May 7, 1999, **READ A SECOND TIME.**)

On motion by Senator **KONTOS** of Cumberland, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-214).

On further motion by same Senator, Senate Amendment "A" (S-325) to Committee Amendment "A" (S-214) **READ** and **ADOPTED.**

Committee Amendment "A" (S-214) as Amended by Senate Amendment "A" (S-325) thereto, **ADOPTED.**

**PASSED TO BE ENGROSSED AS AMENDED COMMITTEE AMENDMENT "A" (S-214) AS AMENDED BY SENATE AMENDMENT "A" (S-325)** thereto.

Sent down for concurrence.

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

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Off Record Remarks

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Off Record Remarks

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On motion by Senator **PINGREE** of Knox, **ADJOURNED**, until Friday, May 21, 1999, at 9:00 in the morning.