

# MAINE STATE LEGISLATURE

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# LEGISLATIVE RECORD

OF THE

**One Hundred And Seventeenth Legislature**

OF THE

**State Of Maine**

**VOLUME IV**

**FIRST REGULAR SESSION**

**Senate**

May 2, 1995 to June 16, 1995

Pending - **ACCEPTANCE OF EITHER REPORT.**

(In House, May 18, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-242).**)

(In Senate, May 23, 1995, Reports **READ.**)

On motion by Senator **AMERO** of Cumberland, Tabled 1 Legislative Day, pending **ACCEPTANCE** of Either Report.

The Chair laid before the Senate the third Tabled and Later Today Assigned (May 30, 1995) matter:

SENATE REPORTS from the Committee on **TAXATION** on Bill "An Act to Repeal Point-of-sale Fees for Future Disposal of Certain Items"

S.P. 84 L.D. 203

Majority - Ought to Pass as Amended by Committee Amendment "A" (S-190) (7 members)

Minority - Ought to Pass as Amended by Committee Amendment "B" (S-191) (6 members)

Tabled - earlier in the day by Senator **LAWRENCE** of York.

Pending - the motion by Senator **HATHAWAY** of York to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report.

(In Senate, May 30, 1995, Reports **READ.**)

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

Senator **HATHAWAY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I will repeat, one more time, that I think our tax policy should be simple, it should be honest, and it should help restore trust between our people and our government. All parties agree that the Waste Management Agency is to be terminated. The good programs, and the people to go along with those programs, will be transferred to other areas for those programs to continue. The budget, under the Minority Report, will be \$1.8 million. The issue is not whether to terminate the agency, but when do we terminate the fees that support it? Amendment "A" says that we should terminate the agency today but keep the fees for another two years. Amendment "B" says if we are going to terminate the agency, we should terminate the fees. I think this is the only honest thing to do between our people and our government. To do otherwise is the ultimate in hypocrisy. As I mentioned before, when you buy a mattress at Daly Brothers in Biddeford, the extra \$5 fee, on a \$50

mattress, is, essentially, a 10% tax. The same if you go to Walsh's Furniture in Kittery. As Mrs. Walsh watches furniture being delivered from Portsmouth, to Maine customers, because Portsmouth doesn't charge the 6% sales tax, nor the extra disposal fee. The issue is, of course, the people who are paying this disposal fee for this mattress, think it is going to somehow dispose of their mattress or some old mattress or something. In fact, that is not the case. If we continue to take these fees from people and use them for other methods it is the ultimate in hypocrisy. So, I am going to ask you to please vote for honesty in government, and vote for the Minority, Amendment "B", motion. Thank you.

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

Senator **LAWRENCE:** Thank you Mr. President, Men and Women of the Senate. I, again, appreciate the good Senator from York's remarks. I am very concerned about my part of the county, in Kittery. I just want to point out a couple of things, because I have debated back and forth over which side of this bill to support. I, too, want to eliminate the fees, and in fact, as I found out, both Reports eliminate the fees. The question is when. The fact is that even though we are eliminating that agency, many of the functions performed by that agency are going to continue that these fees go for. I simply want to point out one other thing. The good Senator mentions that a constituent of mine, a furniture company in Kittery, who constantly sees furniture being delivered to people and Maine, and not paying the taxes, the Chair of the Taxation Committee should know that any furniture delivered to the State of Maine must have a tax paid on it and they will not deliver to the State of Maine unless that tax is paid. I know, I have run into that situation with my business.

The other thing that affected my decision was hearing from a business in my district, Seaward Construction, which runs a tire-chipping facility in my district, and their strong concern if the Majority Report does not pass is the affects on DEP and what happens to the tire fees, which are currently used to assist them. They feel that if the Majority Report does not pass that those fees will have to go for other purposes. For those reasons, I urge you to support Committee Amendment "A".

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

Senator **RUHLIN:** Thank you Mr. President, Honorable Senators of Maine. I would point out to you probably the most important thing. It has been proposed that we abolish the Maine Waste Management Agency, but there is one thing that we cannot abolish, and that is solid waste itself. Just because we abolish the agency, the waste will still continue, and it still is a problem that must be addressed. The Committee that has the oversight of addressing that is the Natural Resources Committee. That Natural Resources Committee has met long, hard, and often in trying to find a way to meld into a newer, more efficient and effective State government, those services that are still needed in handling waste management. You know something, I came to a

conclusion in that whole process. Trying to end the life of a department, believe me, is one heck of a lot harder than trying to start a department. It has not been an easy task, but I think that Committee, again, twelve members of that Committee came together and made a proposal to the Taxation Committee that would, in fact, allow those services to continue if the fees were continued for a short period of time. In keeping with the Governor's proposal, and in keeping with our own proposals. We tried to work with the Taxation Committee. We are sorry that the Report came out seven to six. We would point out to you that acceptance of the Minority Report, which not only abolishes the agency like we all want to do, but abolishes fully the fees, will do one of two things. It will take and put those people in DEP, and I have a list here, those people who issued 1230 certificates and licenses for asbestos abatement, those people who issued 96 licenses for sludge, ash and residuals. These are all paid, by the way, with these fees that we are talking about. Those people who issued 265 licenses for landfills, 280 for facility and inspections with the communities, 250 for inspections of sludge. All these services are being funded from those fees. Not only that, but we proposed this year to do something entirely different, we want to dispose of, at the very least, 800,000 tires and get those chipped up. We have an abundance of old tires in the State of Maine. They are a catastrophe waiting to happen. We will take \$400,000 of that, for the first time ever, and put that to chipping those tires. I hope that you will look at the functions that need to be done by that Department, and see to it that they have the funds to carry them out to a dedicated revenue source. If not, the alternative is to put them into the General Fund where you will open up a huge hole in the budget. If you want to have another hole, at this point in time, in the budget process, I suppose I wouldn't advise that and I would heartily discourage you from doing that. The other thing is if you don't want to do that you can end the fees and emasculate the Department of Environmental Protection, and we can all go to the dump together. So, I hope that you will go along with the Majority Report and defeat the motion to end the fees. Thank you.

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

Senator **HATHAWAY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Frankly I am outraged at some of the rhetoric that is rampant on this issue. We are talking about two separate bills, 203 has to do with the disposal fees, 229, which has been in Natural Resources for a few months now, will be coming forth at a later date. You will have every opportunity to vote on how those fees are spent. L.D. 203 raises a budget of \$1.8 million. In fact, over the next two years, 203 will raise \$1.5 million from tire fees, of which L.D. 229 and the Majority Report, Amendment "A" here, only spends \$600,000 out of \$1.5 million collected in fees on the tire problem. We have a tire problem. Let's spend the money we collect on tire fees to get rid of the tire problem. We don't need to take money we collect from people, the hard-working people of this State, \$5 at a time to fund 9 positions in DEP that used to be funded from the General Fund. If those positions need to be, then bring them to the General Fund, put

them on the table, let's see if they are worth it, but don't charge people \$5 every time they buy furniture or a mattress to pay for these positions that used to be funded in the General Fund. Don't charge people \$5, or \$1 for a battery, or \$1 for a tire, to once again collect \$500,000 to pay Lincoln Pulp and Paper to continue the contract, for which the \$500,000 was already once set aside, which came in a supplemental budget to this body, which is now being spent by another agency, along with another \$1 million that was collected, \$5 and \$1 at a time, from the hard-working people of the State of Maine, which is now being spent by another agency. This is a total outrage. If you want to continue to be dishonest with the people who work hard for their money in this State, then go ahead and vote for the Majority Report. If you want to finally stop these gimmicks, and start being honest with the people of the State of Maine, then vote to terminate the agency and terminate the fees that people pay, at the same time. Thank you.

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

Senator **CAREY:** Thank you Mr. President, Members of the Senate. Up until the last speaker spoke, there had been no mention of the Lincoln Pulp and Paper site. I would like to point out to you that to date, \$2.3 million in site surveys, in licensing requirements; licenses have not been granted yet, but in license requirements; have been spent. The property has not been purchased yet. If we were to turn our back on it today, and the licensing continues, it would belong to Lincoln Pulp and Paper, and we would have given them a gift of \$2.3 million. For the additional \$500,000 that site will become the property of the State of Maine and will be the second site. Sawyer's is almost full, Norridgewock is filling up very fast. There are no other sites in the State. This site, in a remote township to the east of Lincoln has been tested, will be licensed very shortly, and will become ours upon the payment of the \$500,000. That site, I would tell you, if this Legislature doesn't want to run a landfill, could pass a law which would allow yet one more commercial landfill in the State, and that site would be worth anywhere from \$12 million to \$15 million on the market. If, at that point, the State decides they don't want to get into the landfill business, they could pass this law, allow one more commercial site, and reap a \$12 million to \$15 million, not a profit because by then we would have \$2.8 million involved, but at least we would get a return on our money. If we don't go ahead with this bill we will just simply lose the investment that we already have in there. So, I would hope that you do not support the Minority Report, and yet go along with the Majority Report, which was a seven to six report of the Committee.

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

Senator **HATHAWAY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Once again, I would like to point out that L.D. 203 has to do only with the fees, and not what the money is spent for. I would be happy to stand here and argue the merits of whether or not we should continue to pay the

\$500,000 to Lincoln Pulp and Paper contract, when, in fact, the \$500,000 is already set aside for it, given in the supplemental budget earlier this year. The fact is that the State, even though advertising that they don't want to be in the business, has a monopoly on the business, and, in fact, is the only one that can operate the site, the only one that can buy the site, the only one that can permit the site. That is a whole different issue, one which I would love to debate at any other time. The issue is a return of our money. I would like to point out that it is not our money. Every dollar that we collect, after October 1, is their money, the taxpayers money. Every dollar, every \$5 fee. If we want to put it to any use then we should tell them what we are using it for, and we should get it out of the General Fund if we want to fund those 9 people in DEP, we should get it out of the General Fund like we used to. We shouldn't scam the people of this State, telling them that we are collecting fees to use for one purpose, and use it for a totally different purpose. If we are going to terminate this agency, we should terminate these fees, and we should do it now.

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

Senator **RUHLIN:** Thank you Mr. President, Honorable Senators of Maine. Here it is, 6:30 on a nice spring night, the rhetoric sure does go on, and on, and on, and on. I would ask you to bear with me for just a couple of moments, just consider a couple of things, basic facts, nothing more than that. First of all, when you buy a battery, that doesn't make you a taxpayer. It makes you a consumer. So these are consumer dollars, not taxpayer dollars. There's nobody taxing someone, these are consumers. When you buy a bed, you are a consumer, you're not a taxpayer. When you buy a mattress, you are a consumer. When you consume you contribute to the waste stream. When you contribute to the waste stream, you contribute to the problem this State has in handling its waste. So, we ask you to pay a fee to help us, it's called a user fee in many areas, we ask you to pay a fee to help us handle that problem. The issuing of licenses through DEP, the issuing of all of these various things that we do to control the stream of waste, so we don't start swimming in it, is done with these dollars. These dollars are put to use by the Department. You can abolish the Waste Agency. I think they had 16 employees, 10 of those are gone. We have done a better job, I think, than any other department. It's gone. Those jobs don't exist anymore. They're gone. We had to keep six, because somebody has got to do some record keeping. Somebody has got to keep an eye on what's going on, so those jobs were transferred to the State Planning Agency. There is still somebody who has to issue the licenses, that check on the solid landfills, to check on Norridgewock and make sure they don't flood the Town of Norridgewock with the trash. We have to have some people at DEP to do that. They are going to get paid with these dedicated funds. It's a user fee. It's from consumers who consume the products that go into the waste stream. I hope you will keep that in mind when you vote. Thank you.

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

Senator **HANLEY:** Thank you Mr. President, Men and Women of the Senate. I have very few regrets in my legislative service. Regrets of votes I have taken. Because to me it has been a complaint that has been lodged to me that I do see the world as black and white. I will tell you, I was hornswoggled, and I am going to have an opportunity tonight to remedy that vote. That was a vote I took as a member of the other Body, to impose these fees on the people of the State of Maine. I was just a young legislator then, naive and idealistic. I listened to the rhetoric of the good Representatives of the other Body. That rhetoric told me that if I voted for this, this fee on the people of the State of Maine, that money would go directly back to the municipalities for them to deal with the tires, the mattresses, the white goods. Well, imagine my chagrin when I found out that wasn't the case. When I went back to my towns and they said, "Where's the money? Where are the fees?" When I went to my local tire dealers and they asked where this money was going. I found out, some of it, yes, went back through grants, but the bulk of it, as far as for the agency, was not utilized for the purpose I was told. I was sold a false bill of goods. I could not concur more with the good Senator from York, who says it's time for us to start being honest with the people of the State of Maine. If we are not going to have the agency, that these fees were put on for, then we should do away with those fees and we should not wait, we should do it now. I thank the Committee for sending this forth, so I can remedy that vote many years ago.

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

**THE PRESIDENT:** The pending question before the Senate is the motion of Senator **HATHAWAY** of York that the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-191)** Report.

A vote of Yes will be in favor of **ACCEPTANCE**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

**YEAS:** Senators: **BENOIT, BERUBE, CASSIDY, FERGUSON, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, PENDEXTER, SMALL, and the PRESIDENT, Senator BUTLAND**

**NAYS:** Senators: **ABROMSON, AMERO, BEGLEY, CAREY, CARPENTER, CIANCHETTE, CLEVELAND, ESTY, FAIRCLOTH, GOLDTHWAIT, LAWRENCE, LONGLEY, MCCORMICK, MICHAUD, MILLS, PARADIS, RAND, RUHLIN, STEVENS**

**ABSENT:** Senators: **BUSTIN, LORD, O'DEA, PINGREE**

12 Senators having voted in the affirmative and 19 Senators having voted in the negative, with 4 Senators being absent, the motion of Senator HATHAWAY of York to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-191)** Report, **FAILED**.

The Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-190)** Report **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-190) **READ** and **ADOPTED**.

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

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

Bill "An Act to Increase Moose Hunting Permit Application Fees"

H.P. 841 L.D. 1172  
(C "A" H-263)

Tabled - May 30, 1995, by Senator **HALL** of Piscataquis.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

(In House, May 24, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-263)**.)

(In Senate, May 30, 1995, **READ A SECOND TIME**.)

On motion by Senator **HALL** of Piscataquis, the Senate **SUSPENDED THE RULES** for the purpose of **RECONSIDERATION**.

On further motion by the same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (H-263), in concurrence.

On further motion by the same Senator, Senate Amendment "A" (S-205) to Committee Amendment "A" (H-263) **READ**.

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

Senator **HALL:** Thank you Mr. President, Members of the Senate. This is basically a bookkeeping move, whereas under L.D. 1172 we anticipate increased revenue to the Department of Fish and Wildlife to the tune of \$215,600. Basically, what we are doing with this amendment is we have a carryover account, consider it, if you would, like a savings account. Out of next year's budget we anticipate taking three quarters of a million out of that savings account.

What we want to do with this anticipated revenue, it has to be appropriated to something, so we are going to appropriate this to the general operating budget of Fish and Wildlife and decrease taking out of the savings account by this same amount. That's basically what we are trying to do with this amendment. Thank you.

On further motion by the same Senator, Senate Amendment "A" (S-205) to Committee Amendment "A" (H-263) **ADOPTED**.

Committee Amendment "A" (H-263) as Amended by Senate Amendment "A" (S-205), thereto, **ADOPTED** in **NON-CONCURRENCE**.

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

Sent down for concurrence.

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Under suspension of the Rules, all matters thus acted upon, with the exception of those matters being held, sent forthwith.

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Off Record Remarks

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Senator **CARPENTER** of York was granted unanimous consent to address the Senate off the Record.

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On motion by Senator **LONGLEY** of Waldo, **ADJOURNED** in memory of Senator Margaret Chase Smith of Skowhegan, until Thursday, June 1, 1995, at 8:30 o'clock in the morning.