

# MAINE STATE LEGISLATURE

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# LEGISLATIVE RECORD

OF THE

**One Hundred And Seventeenth Legislature**

OF THE

**State Of Maine**

**VOLUME VI**

**SECOND REGULAR SESSION**

**House of Representatives**

January 3, 1996 to April 3, 1996

**Senate**

January 3, 1996 to March 13, 1996

director Chris Downing; (HLS 1095) by Representative JOSEPH of Waterville. (Cosponsors: Representative JACQUES of Waterville, Speaker GWADOSKY of Fairfield, Senator CAREY of Kennebec)

On objection of Representative JOSEPH of Waterville was removed from the Special Sentiment Calendar.

On motion of the same Representative, tabled pending passage and later today assigned.

Cindy Blodgett, of Clinton, a sophomore at the University of Maine and point guard on the "Black Bears" women's basketball team, who has been named the Division I national scoring champion for 1995-96. Cindy averaged 27.8 points per game during division play and became the most prolific sophomore scorer in the NCAA history, amassing 889 points, which is the 10th highest total ever in Division I women's play and the best single season in University of Maine history. Currently, Cindy is the 4th leading scorer in University of Maine history; (HLS 1096) by Representative JONES of Pittsfield. (Cosponsor: Senator MILLS of Somerset)

On objection of Representative JONES of Pittsfield was removed from the Special Sentiment Calendar.

On motion of the same Representative, tabled pending passage and later today assigned.

Joanne Palombo-McCallie, head coach of the University of Maine Women's Basketball Team, on being named the North Atlantic Conference Coach of the Year for 1996; (HLS 1097) by Speaker GWADOSKY of Fairfield. (Cosponsors: President BUTLAND of Cumberland, Senator O'DEA of Penobscot, Representative STEVENS of Orono)

On objection of Representative JACQUES of Waterville was removed from the Special Sentiment Calendar.

On motion of the same Representative, tabled pending passage and later today assigned.

the University of Maine Women's Basketball Team, the 1996 North Atlantic Conference champions, which finished its season with a school record of 27 wins, including a perfect record of 18-0 in its conference, and which participated in the NCAA Women's Division I Basketball Tournament for the 2nd consecutive year, bringing pride to all of the State of Maine; (HLS 1098) by Speaker GWADOSKY of Fairfield. (Cosponsors: President BUTLAND of Cumberland, Senator O'DEA of Penobscot, Representative STEVENS of Orono)

On objection of Representative JACQUES of Waterville was removed from the Special Sentiment Calendar.

On motion of the same Representative, tabled pending passage and later today assigned.

The following items were taken up out of order by unanimous consent:

**SENATE PAPERS**

**Non-Concurrent Matter**

Bill "An Act to Reform Campaign Finance" (I.B. 5) (L.D. 1823) on which the House insisted on its former action whereby the Majority "Ought Not to Pass" Report of the Committee on Legal and Veterans Affairs was read and accepted in the House on March 30, 1996.

Came from the Senate with that Body having adhered to its former action whereby the Minority "Ought to Pass" as amended Report of the Committee on Legal and Veterans Affairs was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-836) in non-concurrence.

The House voted to Adhere.

On motion of Representative VOLENIK of Sedgwick, the House reconsidered its action whereby the House voted to Adhere.

Representative VOLENIK of Sedgwick moved that the House Recede and Concur.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Nadeau.

Representative NADEAU: Mr. Speaker, Men and Women of the House: First of all, I will ask for a division on that motion. I think the same comments I gave you previously apply. What are we afraid of? Let's have this discussion, debate, after session in the open air.

Representative NADEAU of Saco requested a division on the motion to Recede and Concur.

The Chair ordered a division on the motion to Recede and Concur.

Representative MERES of Norridgewock requested a roll call on the motion to Recede and Concur.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of members present and voting. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The pending question before the House is to Recede and Concur. All those in favor will vote yes; those opposed will vote no.

**ROLL CALL NO. 362**

YEA - Adams, Ault, Benedikt, Berry, Brennan, Buck, Bunker, Cameron, Carleton, Carr, Chartrand, Chase, Chick, Davidson, Etnier, Gates, Green, Heeschen, Johnson, Jones, K.; Lane, Lemke, Libby JD; Lovett, Luther, Martin, Meres, Mitchell JE; Morrison, Perkins, Pinkham, Povich, Richard, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Townsend, Tripp, Tuttle, Volenik, Waterhouse, Watson.

NAY - Ahearne, Bailey, Barth, Bigl, Bouffard, Chizmar, Clark, Cloutier, Clukey, Cross, Damren, Desmond, Dexter, DiPietro, Dore, Farnum, Fisher, Gamache, Gerry, Gieringer, Gooley, Gould, Greenlaw, Guerrette, Hartnett, Hatch, Heino, Hichborn, Jacques, Jones, S.; Joseph, Joy, Joyce, Joyner, Keane, Kerr, Kilkelly, Kneeland, Kontos, Labrecque, LaFountain, Layton, Lemaire, Lemont, Libby JL; Lindahl, Look, Lumbra, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Mitchell EH; Murphy, Nadeau, Nass, Nickerson, O'Gara, O'Neal, Peavey, Pendleton, Poirier, Poulin, Pouliot, Reed, G.; Reed, W.; Rice, Ricker, Robichaud, Savage, Sirois, Spear, Stedman, Stone, Strout, Taylor, True, Tufts, Tyler, Underwood, Vigue, Wheeler, Winglass, Winn, Winsor, The Speaker.

ABSENT - Aikman, Birney, Campbell, Daggett, Donnelly, Driscoll, Dunn, Fitzpatrick, Ott, Paul, Plowman, Richardson, Simoneau, Stevens, Thompson, Treat, Truman, Whitcomb.

Yes, 45; No, 88; Absent, 18; Excused, 0.

45 having voted in the affirmative and 88 voted in the negative, with 18 being absent, the motion to Recede and Concur was not accepted.

Subsequently, the House voted to Adhere.

### ENACTORS

#### Emergency Measure

An Act to Make Changes to the Disability Plans Administered by the Maine State Retirement System and to Establish a Process for Further Improvements (H.P. 1238) (L.D. 1698) (C. "A" H-899)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

On motion of Representative MAYO of Bath, the House reconsidered its action whereby the Bill was passed to be engrossed.

On further motion of the same Representative the House reconsidered its action whereby Committee Amendment "A" (H-899) was adopted.

The same Representative presented House Amendment "A" (H-903) to Committee Amendment "A" (H-899) which was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Joyce.

Representative JOYCE: Mr. Speaker, Men and Women of the House: I move Indefinite Postponement and wish to speak to that motion. This amendment is being submitted because of a problem with one person in this entire State. What happened is, over the last 13 or 14 years, the Retirement System overpaid this gentleman by \$100,000. They discovered their error, and now they wish to reduce his future benefits to the correct amount. They are not asking him to pay back the \$100,000 that he was overpaid. They merely want to correct the future payments to give him what he is entitled to. This amendment would prohibit that. If this amendment passes this gentleman, based on the assumptions of the Retirement System, will collect over a quarter of a million dollars more than he is entitled to. I request a roll call. Thank you.

Representative JOYCE of Biddeford moved that House Amendment "A" (H-903) to Committee Amendment "A" (H-899) be indefinitely postponed.

The same Representative requested a roll call on the motion to indefinitely postpone House Amendment "A" (H-903) to Committee Amendment "A" (H-899).

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Men and Women of the House: I would like to add a little bit to the statement previously about how this error took place. The gentleman in question was disabled working for a police department. At that time he received a disability retirement from the Maine State Retirement System. Several years later he had back surgery, and it was discovered that he also had a degenerative back problem. He was then told to file for compensation under Social Security under disability, and he did that. When he informed the Maine State Retirement System of the information that he had applied for, and had been granted, disability under Social Security, they told him that was fine. They also told him if he worked one day, if he went to work for one day, that he, in fact, would lose all of his benefits. That was 13 years ago. So, 13 years ago this person made a decision not to go back to school, not to go to a re-training program, not to

find another line of work, because he was told if he did any of those things he would lose all of his benefits. So he didn't make those choices, 13 years later the Retirement System says, "Oh, I think we made a mistake, because both of your injuries deal with your back, and your back is only one part of your body, then that's one issue. That's one disability. We will not say that that is two disabilities and now we are going to take your Maine State Retirement." One of the other decisions that that person made 13 years ago was not to participate in Medicare. In order for him now to participate in Medicare he would need to pay 13 years of back premiums, which is a phenomenal amount of money. So, he now has to pay, out of his Social Security benefit, he needs to pay for his insurance through Maine State Retirement. He has lost his cash benefit, all but \$24 at this point from Maine State Retirement, and all of that is because an error was made in the Maine State Retirement System 13 years ago and now they are saying they want to correct it.

What this amendment says is that if a mistake like that is made, and it goes on for more than 10 years, that you cannot go back and say we made a mistake 10 years ago, or we made a mistake 20 years ago, or we made a mistake 25 years ago, so we are going to stop your payments now. It's because of life decisions that people make, based on the information that has been provided to them. This person would have made a decision, whether it was to go back to school, to find another line of work, or to do something else, if he had been allowed to do that, but they told him, specifically, you cannot do that. While it's true that the Maine State Retirement System is not asking him to repay the benefits they have already paid him, my contention is that the real situation here is that they made a mistake 13 years ago. That mistake caused this person to make some very distinct decisions about the future of his life, and now the rug has been pulled out from under him because of an error that they say they made. I would urge you to oppose the current motion to indefinitely postpone this amendment, and would urge you to then go on to adopt this bill with the amendment in place. Thank you.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Joyce.

Representative JOYCE: Mr. Speaker, Men and Women of the House: The state is not pulling the rug out from underneath this gentleman. They just don't want to have to pay him another quarter of a million dollars more than he is entitled to.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of members present and voting. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Keane.

Representative KEANE: Mr. Speaker, Ladies and Gentlemen of the House: Will the good Representative from Biddeford explain how he is going to gain \$250,000? I lost that. Thank you.

The SPEAKER: The Representative from Old Town, Representative Keane has posed a question through the Chair to the Representative from Biddeford,