

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
SECOND SPECIAL SESSION
JOURNAL OF THE SENATE**

In Senate Chamber
Thursday
March 25, 2004

Senate called to order by President Pro Tem Sharon A. Treat of Kennebec County.

Prayer by Reverend Elizabeth J. Bachelder, Highland Avenue United Methodist Church of Gardiner.

REVEREND BACHELDER: Please join me in the spirit of prayer. Gracious God of all who believe in Your goodness and Your love, we celebrate with one another and with You the gift of each new day. We acknowledge Your presence with us here in this chamber and ask that in Your mercy You would guide and uphold the members of our state Senate as they deliberate on behalf of the men, women and children of Maine today. May their hearts be full of wisdom and courage as they confront the challenges and grasp the opportunities that are before us in this time. We pray for our leaders, Senate President Daggett, Present Pro Tem Treat, House Speaker Colwell, and our Governor, John E. Baldacci. As we gather, we pray especially for those whom we serve, the people of the State of Maine. May Your rich blessing continue to be upon us as we pray this day in Your holy name. Amen.

Doctor of the day, Christopher Stenberg, M.D. of Cape Elizabeth.

Reading of the Journal of Tuesday, March 23, 2004.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Eliminate State Licensing of Boxers, Wrestlers and Transient Sellers"
S.P. 468 L.D. 1410
(C "A" S-377)

In Senate, February 10, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-377).**

Comes from the House, **PASSED TO BE ENGROSSED, in NON-CONCURRENCE.**

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

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

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Somerset, Senator Hatch.

Senator **HATCH:** Thank you, Madame President, ladies and gentlemen of the Senate. I did not intend to be a main speaker on this particular bill, but I just wanted you to recognize that your eliminating state licensing of boxers and wrestlers in the state and transient sellers. While everyone

would have you believe that this is a good thing to do, it is not, in my opinion, especially of the boxers. While we may all feel, especially some women, including myself, that this is a brutal sport, I would have more problem with it happening in this state if it was not regulated at all. By doing away with the licensing in this state you are doing away with the commission that oversees it. You are leaving it up to Massachusetts to regulate the State of Maine. Boxing is on the increase in this state. Many individuals in my area who have been having problems at school, and what not, have been redirected to boxing and are taking courses. They are training in Lewiston and traveling. They have people who are overseeing what they are doing. It's turning them around. So I would ask that you not pass this bill and that we can move on and indefinitely postpone the bill. I looked at the amendment that was striped off in the House and I can honestly tell you that even with the amendment it did not make this any better. Take a good look at this. Do you really want our young people not having a board or commission that is overseeing the boxing in this state? I don't think it's a good idea. It wasn't a good idea two years ago, it wasn't a good idea four years ago, and it's still not a good idea. It's the same old bill. When you vote, would you please vote no on the recede and concur so that we can move on and indefinitely postpone this. Thank you.

On motion by Senator **GAGNON** of Kennebec, **TABLED** until Later in Today's Session, pending the motion by Senator **BROMLEY** of Cumberland to **RECEDE** and **CONCUR**. (Roll Call Ordered)

Off Record Remarks

COMMUNICATIONS

The Following Communication:

S.P. 777

STATE OF MAINE
121ST MAINE LEGISLATURE

March 23, 2004

Sen. Bruce S. Bryant
Senate Chair, Joint Standing Committee on
Agriculture, Conservation and Forestry
Rep. Linda Rogers McKee
House Chair, Joint Standing Committee on
Agriculture, Conservation and Forestry
121st Legislature
Augusta, ME 04333

Dear Senator Bryant and Representative McKee:

Please be advised that Governor John E. Baldacci has nominated James W. Tracy of Farmingdale and Norman G. Trask of Easton for reappointment; and Stanley P. Kuklinski of Farmington for appointment as members of the State Harness Racing Commission.

Pursuant to Title 8, M.R.S.A. § 261-A, these nominations will require review by the Joint Standing Committee on Agriculture, Conservation and Forestry and confirmation by the Senate.

Sincerely,

S/Beverly C. Daggett
President of the Senate

S/Patrick Colwell
Speaker of the House

READ and **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**.

Sent down for concurrence.

The Following Communication:

S.P. 778

**STATE OF MAINE
121ST MAINE LEGISLATURE**

March 23, 2004

Sen. Bruce S. Bryant
Senate Chair, Joint Standing Committee on
Agriculture, Conservation and Forestry
Rep. Linda Rogers McKee
House Chair, Joint Standing Committee on
Agriculture, Conservation and Forestry
121st Legislature
Augusta, ME 04333

Dear Senator Bryant and Representative McKee:

Please be advised that Governor John E. Baldacci has nominated Colon E. Durrell of Farmington and Katherine O. Musgrave of Orono for reappointment as members of the Maine Milk Commission.

Pursuant to Title 7 M.R.S.A. § 2952, these nominations will require review by the Joint Standing Committee on Agriculture, Conservation and Forestry and confirmation by the Senate.

Sincerely,

S/Beverly C. Daggett
President of the Senate

S/Patrick Colwell
Speaker of the House

READ and REFERRED to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**.

Sent down for concurrence.

The Following Communication:

S.C. 531

**121ST LEGISLATURE
COMMITTEE ON
CRIMINAL JUSTICE AND PUBLIC SAFETY**

March 17, 2004

Honorable Beverly Daggett, President
Honorable Patrick Colwell, Speaker
121st Maine Legislature
State House
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

Pursuant to Title 3 of the Maine Revised Statutes, chapter 35, we are pleased to submit the findings and recommendations of the Joint Standing Committee on Criminal Justice and Public Safety from the review and evaluation of the Maine Department of Corrections. The committee received a presentation from department staff and offered the opportunity for public comment on the department's performance. Following this review, the committee found that the department is operating within its statutory authority.

Sincerely,

S/Senator. Ethan Strimling

S/Rep. Patricia A. Blanchette

Senate Chair

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication:

S.C. 526

**121st LEGISLATURE
COMMITTEE ON
EDUCATION AND CULTURAL AFFAIRS**

March 22, 2004

Honorable Beverly C. Daggett, President of the Senate
Honorable Patrick Colwell, Speaker of the House
121st Maine Legislature
State House
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

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

- L.D. 1657 Resolve, Directing the Department of Education To Amend Its Rules Regarding Child Development Services for Children of Kindergarten Age Who Are Not Attending Kindergarten
- L.D. 1871 Resolve, To Provide for the Reorganization of the Student Loan Repayment and Forgiveness Programs To Better Meet the Needs of Maine Employers and the Maine Economy

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

Sincerely,

S/Sen. Neria R. Douglass
Senate Chair

S/Rep. Glenn Cummings
House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication:

S.C. 527

**121ST LEGISLATURE
COMMITTEE ON LABOR**

March 22, 2004

Honorable Beverly C. Daggett, President of the Senate
Honorable Patrick Colwell, Speaker of the House
121st Maine Legislature
State House
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

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

- L.D. 71 An Act to Ban Strikebreakers

L.D. 550 An Act Regarding Employment of Workers' Compensation Board Hearing Officers and Mediators

L.D. 1817 An Act To Notify MaineCare of Workers' Compensation Settlements

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

Sincerely,

S/Sen. Betheda G. Edmonds
Senate Chair

S/Rep. William J. Smith
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE.**

The Following Communication:

S.C. 528

**121ST LEGISLATURE
COMMITTEE ON NATURAL RESOURCES**

March 22, 2004

Honorable Beverly C. Daggett, President of the Senate
Honorable Patrick Colwell, Speaker of the House
121st Maine Legislature
State House
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

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

L.D. 1845 An Act To Amend the Bacteria Standard and Dissolved Oxygen Standard for Certain Waters

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

Sincerely,

S/Sen. John L. Martin
Senate Chair

S/Rep. Theodore Koffman
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE.**

The Following Communication:

S.C. 530

**121ST LEGISLATURE
COMMITTEE ON
INLAND FISHERIES AND WILDLIFE**

March 22, 2004

Honorable Beverly C. Daggett, President of the Senate
Honorable Patrick Colwell, Speaker of the House
121st Maine Legislature
State House
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

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

L.D. 1708 An Act Regarding the Operation of All-terrain Vehicles on Private Roads

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

Sincerely,

S/Sen. Bruce Bryant
Senate Chair

S/Rep. Matthew Dunlap
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE.**

The Following Communication:

S.C. 532

**MAINE STATE LEGISLATURE
AUGUSTA, MAINE 04333**

**COMMISSION TO STUDY THE SCOPE
AND QUALITY OF CITIZENSHIP EDUCATION**

March 19, 2004

The Honorable Beverly C. Daggett, President
Maine State Senate

The Honorable Patrick Colwell, Speaker
Maine House of Representatives

State House
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

This letter is to inform you that the Commission to Study the Scope and Quality of Citizenship Education has completed its work and submitted its report, including recommended legislation, pursuant to Resolve 2003, chapter 85.

Sincerely,

S/Senator Neria R. Douglass, Chair

S/Representative Glenn Cummings, Chair

READ and with accompanying papers **ORDERED PLACED ON FILE.**

The Following Communication:

H.C. 370

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
CLERK'S OFFICE
2 STATE HOUSE STATION
AUGUSTA, MAINE 04333**

March 23, 2004

Honorable Joy J. O'Brien
Secretary of the Senate
121st Legislature

Augusta, Maine 04333

Dear Secretary O'Brien:

The House voted today to insist on its former action whereby the Majority OUGHT NOT TO PASS Report of the Committee on MARINE RESOURCES was READ and ACCEPTED on Resolve, Related to Aquaculture Leases in Blue Hill Bay

(S.P. 410)(L.D. 1279)

Sincerely,

S/Millicent M. MacFarland
Clerk of the House

READ and with accompanying papers **ORDERED PLACED ON FILE.**

SENATE PAPERS

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

S.P. 775 L.D. 1942

Sponsored by Senator BRYANT of Oxford. (GOVERNOR'S BILL)
Cosponsored by Representative HATCH of Skowhegan and Senators: DAVIS of Piscataquis, HATCH of Somerset, KNEELAND of Aroostook, MARTIN of Aroostook, Representatives: JACKSON of Fort Kent, RICHARDSON of Greenville, TOBIN of Dexter.

On motion by Senator **BRYANT** of Oxford, **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed.

Sent down for concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

ORDERS

Joint Orders

Expressions of Legislative Sentiment recognizing:

Ed McAleney, of Cape Elizabeth, who has been inducted into the University of Massachusetts Athletic Hall of Fame. Mr. McAleney excelled in football at the high school, college and professional levels. He was named to the Yankee Conference All-Time 50th Anniversary Team in 1996. He played for the Calgary Stampeders of the Canadian Football League. He was an All-Western Conference selection in 1979 and the CFL Defensive Player of the Year in 1981. Mr. McAleney was the Stampeders Most Valuable Player in 1979 and again in 1981 and 1982. He was inducted into the Maine State Hall of Fame in 1991. Mr. McAleney was the founder of the "Kids to Kamp" charity in Calgary. We extend our congratulations to Mr. McAleney on this honor;

SLS 619

Sponsored by Senator BROMLEY of Cumberland.
Cosponsored by Representatives: BLISS of South Portland, McLAUGHLIN of Cape Elizabeth.

READ.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Bromley.

Senator **BROMLEY**: I rise today to recognizing Ed McAleney's Hall of Fame appointment for his athletic abilities. I particularly want to congratulate and thank him for his Hall of Fame approach to being a community activist. He and his wife, Jeannie, operate a small business. They are extraordinarily involved in our community in terms of their children's school activities and sports. If there were a Hall of Fame for community activism, the entire family would be inducted into that Hall of Fame. We congratulate him today for his athletic recognition, but also for being such an important part of our community. Thank you very much.

PASSED.

Sent down for concurrence.

THE PRESIDENT PRO TEM: The Chair is pleased to recognize in the rear of the chamber Ed McAleney, who is here with his wife, Jeannie, and his daughter, Morgan. His son, Connor was already introduced as one of our Honorary Pages. Would they all please stand and accept the greetings of the Stenete.

Joint Resolutions

On motion by Senator **LAFOUNTAIN** of York (Under suspension of the rules, cosponsored by Representative O'NEIL of Saco and Senators: President DAGGETT of Kennebec, DAVIS of Piscataquis, DOUGLASS of Androscoggin, GAGNON of Kennebec, MAYO of Sagadahoc, President Pro Tem TREAT of Kennebec, WOODCOCK of Franklin, Representatives: BOWLES of Sanford, BREault of Buxton, BRUNO of Raymond, CANAVAN of Waterville, Speaker COLWELL of Gardiner, DUPLESSIE of Westbrook, GLYNN of South Portland, PERRY of Calais, PERRY of Bangor, RICHARDSON of Brunswick, SNOWE-MELLO of Poland, VAUGHAN of Durham, WOODBURY of Yarmouth, YOUNG of Limestone), the following Joint Resolution:

S.P. 776

**JOINT RESOLUTION RECOGNIZING THE MAINE
BANKING COMMUNITY**

WHEREAS, the members of the Maine Bankers Association and the Maine Association of Community Banks have been serving the needs of the people of Maine for over 175 years; and

WHEREAS, the associations' members and their employees continue to demonstrate their commitment to children and the communities they serve through more than 232,000 volunteer hours and almost \$7,000,000 in community contributions in 2003; and

WHEREAS, the commitment to volunteerism and assisting Maine's youth is represented here today by the 2004 America's Promise Volunteers:

Charles Ault, Union Trust Company; Marge Barker, Peoples Heritage Bank; Brenda Blackman, The First National Bank of Damariscotta; Peggy Bugbee, Katahdin Trust Company; Carolyn Crosby, Camden National Bank; Philip Giordano, Fleet Bank; Ray Hews, First Citizens Bank; Sonja Hubbard, Bar Harbor Bank Shares; Mark Jones, Saco & Biddeford Savings Institution; Deborah Jordan, Merrill Bank; Karen Knight, Sanford Institution for Savings; Patricia Lane, Bath Savings Institution; Monique McRae, Bath Savings Institution; Catherine Moore, UnitedKingfield Bank; Gail Nason, Biddeford Savings Bank; Darrin Riley, Skowhegan Savings Bank; Tracey Russell, Key Bank; Linda Seeley, The First National Bank of Bar Harbor; Andrew Silsby, Kennebec Savings Bank; Anne Singleton, Maine Bank & Trust; Joan Smith, Acadia Trust Company; Cindy Spencer, Franklin Savings Bank; Linda Varrell, Northeast Bank; Kim Vieira, Kennebunk Savings Bank; and Robert Wood, Machias Savings Bank; and

WHEREAS, the members of the Maine Bankers Association and the Maine Association of Community Banks are also giving back to their communities through a commitment to provide financial literacy programs to Maine's youth and young adults, including the joint American Bankers Association and Maine Bankers Association annual "Teach Children to Save Day" program, which will reach students in over 100 schools in April; the FDIC's Money Smart program; Junior Achievement; the Maine Council on Economic Education programs; and individual bank programs; and

WHEREAS, these financial literacy programs are providing a financial education that is essential to forming a lifetime of positive habits such as saving, the wise use of credit and fiscal responsibility; and

WHEREAS, Maine's banking industry continues to be an important supporter of the Maine Bar Association's Interest on Lawyers' Trust Accounts program, which provides legal services for all of Maine's disadvantaged citizens; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-first Legislature now assembled in the Second Special Session, take this occasion to recognize the Maine Bankers Association and the Maine Association of Community Banks for their continued commitment and contributions to their communities and for their supporting Maine's long tradition of service to others and to recognize this industry's commitment to providing needed financial literacy programs and support for the Interest on Lawyers' Trust Accounts program; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Maine Bankers Association and the Maine Association of Community Banks and the 2004 America's Promise Volunteers.

READ.

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

Senator **LAFOUNTAIN:** Thank you, Madame President. I am pleased today to sponsor this Joint Resolution recognizing the Maine Banker's Association, the Maine Association of Community Bankers, and the employees of financial institutions throughout Maine for the commitment to community service through the 2004 America's Promise volunteer program. I am most impressed by the "Teach Children to Save Day" program designed to educate Maine's youth and young adults on the importance of saving. I welcome those members of the banking community who have traveled to Augusta today to shadow members of this legislature and hope you enjoy your day. Thank you.

On motion by Senator **LAFOUNTAIN** of York, **ADOPTED.**

Sent down for concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

On motion by Senator **CATHCART** of Penobscot (Under suspension of the rules, cosponsored by Representative **THOMAS** of Orono and Senators: **BRENNAN** of Cumberland, **BROMLEY** of Cumberland, **BRYANT** of Oxford, President **DAGGETT** of Kennebec, **DAMON** of Hancock, **DOUGLASS** of Androscoggin, **EDMONDS** of Cumberland, **GAGNON** of Kennebec, **HALL** of Lincoln, **HATCH** of Somerset, **LAFOUNTAIN** of York, **MARTIN** of Aroostook, **MITCHELL** of Penobscot, **PENDLETON** of Cumberland, **ROTUNDO** of Androscoggin, **STANLEY** of Penobscot, **STRIMLING** of Cumberland, President Pro Tem **TREAT** of Kennebec, **TURNER** of Cumberland, Representatives: **BENNETT** of Caribou, **BRANNIGAN** of Portland, **CANAVAN** of Waterville, Speaker **COLWELL** of Gardiner, **COWGER** of Hallowell, **DUDLEY** of Portland, **DUNLAP** of Old Town, **DUPLESSIE** of Westbrook, **FAIRCLOTH** of Bangor, **HATCH** of Skowhegan, **KOFFMAN** of Bar Harbor, **MAILHOT** of Lewiston, **NORBERT** of Portland, **PINGREE** of North Haven, **RICHARDSON** of Brunswick), the following Joint Resolution:

S.P. 779

**JOINT RESOLUTION RECOGNIZING THE HONORABLE
GEORGE J. MITCHELL, ARCHITECT OF THE LANDMARK
FEDERAL CLEAN AIR ACT**

WHEREAS, the Clean Air Act Amendments of 1990 is the most recent version of a law first passed in 1970 and is designed to make sure all Americans have air that is safe to breathe by requiring that

the United States Environmental Protection Agency set national health-based air quality standards to protect against common pollutants and work with state governments; and

WHEREAS, by any objective measurement, the Clean Air Act has been a tremendous success. The air is cleaner than before and public health has improved because of it. Emissions of toxic lead have dropped 98%, emissions of sulfur dioxide have dropped 35% and emissions of carbon monoxide have dropped 32%, even while driving has increased 127%; and

WHEREAS, the chief architect of this Act is the Honorable George J. Mitchell, one of the most respected and renowned Maine citizens of our time. Born and raised in Waterville, Maine, he attended Bowdoin College and received his law degree from Georgetown University Law Center; and

WHEREAS, a trial attorney in the United States Justice Department before he joined the congressional staff of Senator Edmund Muskie in 1962, George J. Mitchell entered private practice in 1965 and then was appointed Assistant Cumberland County Attorney in 1970, United States Attorney by President Jimmy Carter in 1977 and United States District Judge by President Carter in 1979; and

WHEREAS, George J. Mitchell served in the United States Senate from 1980 to 1995, being reelected with overwhelming majorities and serving as Senate Majority Leader from 1988 to 1995 with great distinction. He then was prevailed upon by President Clinton to be Special Advisor to Northern Ireland and there played a key role in peace talks; and

WHEREAS, Senator Mitchell was responsible for much notable legislation, particularly in the areas of the environment and health care. He sponsored the Clean Water Act of 1987 and the Clean Air Act Amendments of 1990, which reduced acid rain in Maine and the Northeast, as documented by the state-of-the-art research led by the University of Maine's Senator George J. Mitchell Center for Environmental and Watershed Research; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-first Legislature, now assembled in the Second Special Session, on behalf of the people we represent, take this opportunity to honor and applaud one of Maine's most famous native sons upon the occasion of the 10-year assessment of the Clean Air Act, which has proved beneficial to all Americans; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable George J. Mitchell and the Senator George J. Mitchell Center for Environmental and Watershed Research on behalf of the people of Maine as a token of their esteem and gratitude.

READ and ADOPTED.

Sent down for concurrence.

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Amend the Definition of 'Electrical Installations' in the Laws Governing Electricians"
H.P. 1295 L.D. 1773

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.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Ought to Pass As Amended

The Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Make Technical Corrections to Maine's Fish and Wildlife Laws"

H.P. 1265 L.D. 1743

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-781)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-781)**.

Report **READ**.

On motion by Senator **BRYANT** of Oxford, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF REPORT**, in concurrence.

Divided Report

The Majority of the Committee on **MARINE RESOURCES** on Bill "An Act To Repeal the Exception Provision for Certain Imported Lobster under the Laws Governing Lobster Measurement" (EMERGENCY)

H.P. 1243 L.D. 1667

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

Signed:

Senators:

DAMON of Hancock
PENDLETON of Cumberland
BENNETT of Oxford

Representatives:

BULL of Freeport
SULLIVAN of Biddeford
PERCY of Phippsburg
MUSE of Fryeburg
McNEIL of Rockland
RECTOR of Thomaston

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-789)**.

Signed:

Representatives:

ASH of Belfast
DUGAY of Cherryfield
BIERMAN of Sorrento

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

Reports **READ**.

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

Divided Report

Six members of the Committee on **JUDICIARY** on Bill "An Act To Promote the Financial Security of Maine's Families and Children"

H.P. 1152 L.D. 1579

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-774)**.

Signed:

Senators:

PENDLETON of Cumberland
CATHCART of Penobscot

Representatives:

NORBERT of Portland
BULL of Freeport
SIMPSON of Auburn
GERZOFKY of Brunswick

(Representative LORING of the Penobscot Nation - of the House - supports Report "A" **Ought to Pass as Amended by Committee Amendment "A" (H-774)**.)

Six members of the same Committee on the same subject reported in Report "B" that the same **Ought Not to Pass**.

Signed:

Senator:

WOODCOCK of Franklin

Representatives:

BENNETT of Caribou
SHERMAN of Hodgdon
CARR of Lincoln
DUPREY of Hampden
BRYANT-DESCHENES of Turner

One member of the same Committee on the same subject reported in Report "C" that the same **Ought to Pass as Amended by Committee Amendment "B" (H-775)**.

Signed:

Representative:

MILLS of Farmington

Comes from the House with Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-774) READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-774) AS AMENDED BY HOUSE AMENDMENT "A" (H-782)** thereto.

Reports **READ**.

Senator **PENDLETON** of Cumberland moved the Senate **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-774)**, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-774)**, in concurrence.

Senate

Ought to Pass As Amended

Senator DOUGLASS for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on
Resolve, Regarding Participation in the Federal No Child Left Behind Act of 2001 (EMERGENCY)
S.P. 648 L.D. 1716

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-443)**.

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

READ ONCE.

Committee Amendment "A" (S-443) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator DOUGLASS for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill
"An Act To Expand Access to Higher Education and Employment for Youth"
S.P. 708 L.D. 1862

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-445)**.

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

READ ONCE.

Committee Amendment "A" (S-445) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator MARTIN for the Committee on **NATURAL RESOURCES** on Bill "An Act To Establish a
Monitoring Program of Maine Lakes Identified as Having Invasive Aquatic Species"
S.P. 656 L.D. 1723

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-450)**.

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

READ ONCE.

Committee Amendment "A" (S-450) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator MARTIN for the Committee on **NATURAL RESOURCES** on Bill "An Act To Change
the Point System for Clearing Vegetation Adjacent to Protected Natural Resources"
S.P. 705 L.D. 1858

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-448)**.

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

READ ONCE.

Committee Amendment "A" (S-448) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator MARTIN for the Committee on **NATURAL RESOURCES** on Bill "An Act To Provide Additional Financing for Costs Associated with the Remediation of a Waste Oil Handling Facility Site in Plymouth"

S.P. 709 L.D. 1863

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-449)**.

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

READ ONCE.

Committee Amendment "A" (S-449) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator ROTUNDO for the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Extend the Deadline for Reconsideration by Boards of Appeals"

S.P. 720 L.D. 1872

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-444)**.

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

READ ONCE.

Committee Amendment "A" (S-444) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator YOUNGBLOOD for the Committee on **UTILITIES AND ENERGY** on Bill "An Act Creating the Central Maine Regional Public Safety Communication Center"

S.P. 615 L.D. 1683

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-454)**.

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

READ ONCE.

Committee Amendment "A" (S-454) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Amend the Economic Development Laws"

S.P. 666 L.D. 1818

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-452)**.

Signed:

Senator:

SHOREY of Washington

Representatives:

SULLIVAN of Biddeford
ROGERS of Brewer
SMITH of Monmouth
JACOBSEN of Waterboro
PELLON of Machias
AUSTIN of Gray
DUPREY of Medway
RECTOR of Thomaston
O'BRIEN of Lewiston

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (S-453)**.

Signed:

Senators:

BROMLEY of Cumberland
HALL of Lincoln

Representative:

BERUBE of Lisbon

Reports **READ**.

On motion by Senator **BROMLEY** of Cumberland, Bill and accompanying papers **INDEFINITELY POSTPONED**.

Sent down for concurrence.

Divided Report

The Majority of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Amend the Licensing Laws for Hearing Aid Dealers and Fitters"

S.P. 747 L.D. 1908

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

Signed:

Senators:

BROMLEY of Cumberland
SHOREY of Washington
HALL of Lincoln

Representatives:

SULLIVAN of Biddeford
AUSTIN of Gray
DUPREY of Medway
BEAUDETTE of Biddeford
O'BRIEN of Lewiston
PELLON of Machias
SMITH of Monmouth
ROGERS of Brewer

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

Signed:

Representatives:

BERUBE of Lisbon

JACOBSEN of Waterboro

Reports **READ**.

Senator **BROMLEY** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS** Report.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Bromley.

Senator **BROMLEY:**

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#285)

YEAS: Senators: BENNETT, BLAIS, BROMLEY, BRYANT, CARPENTER, CATHCART, DAMON, DAVIS, DOUGLASS, EDMONDS, GAGNON, GILMAN, HALL, HATCH, KNEELAND, LAFOUNTAIN, LEMONT, MARTIN, MAYO, MITCHELL, PENDLETON, ROTUNDO, SAVAGE, SAWYER, STANLEY, STRIMLING, TURNER, WESTON, WOODCOCK, YOUNGBLOOD, THE PRESIDENT PRO TEM - SHARON A. TREAT

NAYS: Senator: NASS

ABSENT: Senators: BRENNAN, SHOREY

EXCUSED: Senator: DAGGETT

31 Senators having voted in the affirmative and 1 Senator having voted in the negative, with 2 Senators being absent and 1 Senator being excused, the motion by Senator **BROMLEY** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS** Report, **PREVAILED**.

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Streamline the Sales Tax Credit for Worthless Accounts To Eliminate Unnecessary Burdens on Certain Maine Businesses and Consumers"

S.P. 646 L.D. 1714

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-451)**.

Signed:

Senators:

STANLEY of Penobscot
STRIMLING of Cumberland
NASS of York

Representatives:

COURTNEY of Sanford
CLOUGH of Scarborough
McCORMICK of West Gardiner
TARDY of Newport
SUSLOVIC of Portland
SIMPSON of Auburn
PERRY of Bangor

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

Signed:

Representatives:

LEMOINE of Old Orchard Beach
LERMAN of Augusta
McGOWAN of Pittsfield

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (S-451) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **UTILITIES AND ENERGY** on Bill "An Act To Enhance Pine Tree Development Zones"

S.P. 624 L.D. 1692

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-446)**.

Signed:

Senators:

HALL of Lincoln
BROMLEY of Cumberland
YOUNGBLOOD of Penobscot

Representatives:

RINES of Wiscasset
FLETCHER of Winslow
LUNDEEN of Mars Hill
ADAMS of Portland
MOODY of Manchester
BERRY of Belmont
BLISS of South Portland

RICHARDSON of Skowhegan

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (S-447)**.

Signed:

Representative:

GOODWIN of Pembroke

Reports **READ**.

On motion by Senator **HALL** of Lincoln, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-446)** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-446) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

SECOND READERS

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

House As Amended

Bill "An Act To Amend the Medicaid Drug Rebate Program and the Elderly Low-cost Drug Program"

H.P. 1269 L.D. 1747
(C "A" H-778)

Bill "An Act To Amend the Rule-making Authority of the Department of Human Services to Ensure Cost-effective Operation of State Medical Services Programs and Compliance with Federal Requirements" (EMERGENCY)

H.P. 1270 L.D. 1748
(C "A" H-777)

Resolve, Regarding Legislative Review of Portions of Chapter 895: Underground Facility Damage Prevention Requirements, a Major Substantive Rule of the Public Utilities Commission (EMERGENCY)

H.P. 1372 L.D. 1846
(C "A" H-776)

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

Bill "An Act To Ban the Sale of Novelties Containing Batteries with Mercury"

H.P. 1237 L.D. 1661
(C "A" H-780)

READ A SECOND TIME.

On motion by Senator **DAVIS** of Piscataquis, 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 (#286)

YEAS: Senators: BENNETT, BLAIS, BROMLEY, BRYANT, CARPENTER, CATHCART, DAMON, DAVIS, DOUGLASS, EDMONDS, GAGNON, GILMAN, HALL, HATCH, KNEELAND, LAFOUNTAIN, LEMONT, MARTIN, MAYO, MITCHELL, NASS, PENDLETON, ROTUNDO, SAVAGE, SAWYER, STANLEY, STRIMLING, TURNER, WESTON, WOODCOCK, YOUNGBLOOD, THE PRESIDENT PRO TEM - SHARON A. TREAT

NAYS: Senators: None

ABSENT: Senators: BRENNAN, SHOREY

EXCUSED: Senator: DAGGETT

32 Senators having voted in the affirmative and no Senators having voted in the negative, with 2 Senators being absent and 1 Senator being excused, the Bill was **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

Bill "An Act To Repeal Outdated and Unfunded Municipal and Educational Mandates"
H.P. 327 L.D. 419
(C "A" H-631)

READ A SECOND TIME and **PASSED TO BE ENGROSSED AS AMENDED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

Senate As Amended

Bill "An Act Relating to Storm Water Management"
S.P. 712 L.D. 1866
(C "A" S-441)

READ A SECOND TIME.

On motion by Senator **DAVIS** of Piscataquis, 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 (#287)

YEAS: Senators: BENNETT, BLAIS, BROMLEY, BRYANT, CARPENTER, CATHCART, DAMON, DAVIS, DOUGLASS, EDMONDS, GAGNON, GILMAN, HALL, HATCH, KNEELAND, LAFOUNTAIN, LEMONT, MARTIN, MAYO, MITCHELL, NASS, PENDLETON, ROTUNDO, SAVAGE, SAWYER, STANLEY, STRIMLING, TURNER, WESTON, WOODCOCK, YOUNGBLOOD, THE PRESIDENT PRO TEM - SHARON A. TREAT

NAYS: Senators: None

ABSENT: Senators: BRENNAN, SHOREY

EXCUSED: Senator: DAGGETT

32 Senators having voted in the affirmative and no Senators having voted in the negative, with 2 Senators being absent and 1 Senator being excused, the Bill was **PASSED TO BE ENGROSSED AS AMENDED**.

Sent down for concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

ENACTORS

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

Acts

An Act To Strengthen the Prohibition against Night Hunting

H.P. 1238 L.D. 1662
(H "A" H-762 to C "A" H-692)

An Act To Simplify the Maine Turnpike Authority's Enforcement Procedures for Toll Violations

S.P. 637 L.D. 1705
(H "A" H-763 to C "A" S-412)

An Act To Clarify Prequalification Criteria for Public Improvements

H.P. 1305 L.D. 1783
(S "A" S-428 to C "A" H-666)

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

An Act To Authorize the STARBASE Program

S.P. 622 L.D. 1690
(C "A" S-423)

At the request of Senator **ROTUNDO** of Androscoggin a Division was had. 21 Senators having voted in the affirmative and 10 Senators having voted in the negative, was **PASSED TO BE ENACTED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

An Act To Create the Position of Director of Energy Programs at the Public Utilities Commission

H.P. 1252 L.D. 1730
(C "A" H-761)

On motion by Senator **BENNETT** of Oxford, **TABLED** 1 Legislative Day, pending **ENACTMENT**, in concurrence.

Resolves

Resolve, Directing the Secretary of State To Study the Feasibility of Instant Run-off Voting

H.P. 171 L.D. 212
(C "A" H-751)

Resolve, To Improve the Quality of Health Care

S.P. 225 L.D. 616
(C "A" S-427)

FINALLY PASSED and having been signed by the President Pro Tem were presented by the Secretary to the Governor for his approval.

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator BRYANT for the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Resolve, Authorizing the Conveyance of a Conservation Easement on a Parcel of Land on Peaks Island to the Peaks Island Land Preserve

S.P. 652 L.D. 1719

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-455)**.

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

READ ONCE.

Committee Amendment "A" (S-455) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

PAPERS FROM THE HOUSE

House Paper

**Pursuant to Statute
Department of Transportation**

The **Department of Transportation**, pursuant to Maine Revised Statutes, Title 5, section 8072 asked leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 299: Highway Driveway and Entrance Rules, a Major Substantive Rule of the Department of Transportation (EMERGENCY)

H.P. 1443 L.D. 1943

Be **REFERRED** to the Committee on **TRANSPORTATION** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **TRANSPORTATION** and ordered printed pursuant to Joint Rule 218.

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

On motion by Senator **HATCH** of Somerset, **REFERRED** to the Committee on **TRANSPORTATION** and ordered printed pursuant to Joint Rule 218, in concurrence.

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

PAPERS FROM THE HOUSE

Joint Resolution

The following Joint Resolution:

H.P. 1442

**JOINT RESOLUTION MEMORIALIZING THE
PRESIDENT OF THE UNITED STATES,
CONGRESS AND THE UNITED STATES POSTAL
SERVICE TO MAINTAIN CURRENT LEVELS
OF SERVICE**

WE, your Memorialists, the Members of the One Hundred and Twenty-first Legislature of the State of Maine now assembled in the Second Special Session, most respectfully present and petition the President of the United States, Congress and the United States Postal Service as follows:

WHEREAS, the United States Postal Service, founded in 1775, provides a means for commerce and communications and provides postal services to all communities, rich and poor, urban and rural, with uniform postage rates and it has for nearly 230 years provided dependable, affordable mail service. The United States Postal Service remains an important part of our nation's economic infrastructure through which nearly \$1 trillion of economic activity is conducted each year and in which 9,000,000 people are employed; and

WHEREAS, Americans currently enjoy the most extensive postal service at the lowest postage rates of any major industrialized nation in the world, and excessive below-cost postage discounts to large business and advertising mailers unnecessarily drain billions of dollars of revenue from the United States Postal Service and ultimately cause small businesses and ordinary citizens to subsidize those discounts through higher postage rates. Millions of older, disabled and economically disadvantaged Americans do not have easy access to the Internet or to electronic banking and bill paying and therefore are heavily dependent on the United States Postal Service for communication and the conducting of business transactions; and

WHEREAS, the President created the President's Commission on the United States Postal Service, which has recommended far-reaching changes to postal operations and services, including severing postal employees from federal employee health, retirement and workers' compensation programs, and the repeal of certain existing laws, which would pave the way towards reducing rank-and-file wages and benefits while eliminating the current salary cap on executive-level postal positions in order to raise postal executive pay on par with that of corporate CEOs and the commission has recommended a new President-appointed, corporate-style board of directors and the new Postal Regulatory Board that would give these new politically appointed governing bodies broad authority to set rates without prior approval, review and refine the scope of the United States Postal Service's universal service obligation and uniform rate structure and change and restrict the scope of services currently protected under postal monopoly regulations; and

WHEREAS, this broad authority would allow post offices to be closed without community input and prices to be set with a complicated postage rate structure or would even turn over postal operations to private for-profit enterprises despite a recent survey whose respondents had an overwhelmingly favorable view of the United States Postal Service, with 3 out of 4 saying no major changes are needed and 3 out of 10 saying the United States Postal Service works extremely well as is; and

WHEREAS, replacing the United States Postal Service's public service obligation with a profit-seeking mandate would undermine the United States Postal Service's historical "universal service" obligation, weaken its national infrastructure and divide our nation politically and economically, and here in the District of Maine, the United States Postal Service has unilaterally implemented a cost-saving reduction of hours and access that restricts customer service by curtailing hours; and

WHEREAS, this program has reduced hours of service at over 50% of post offices in Maine, severely affecting customer service, without regard to customers' input and complaints. Maine is a rural state and our elderly and disabled citizens depend on postal services; now, therefore, be it

RESOLVED: That We, your Memorialists, request that the President of the United States, Congress and the United States Postal Service continue to maintain affordable, dependable mail

service at current levels because of its social and economic importance to our nation; and be it further

RESOLVED: That we oppose any effort to undermine the United States Postal Service's universal service obligation and its uniform rate structure, that the service hours be returned to where they were before the report of the President's Commission on the United States Postal Service and prior to the implementation of the Small Post Office Reviews and Standardization Program and that any recommendation from the presidential commission that curtails public services related to our current postal service be rejected; and be it further

RESOLVED: That We, your Memorialists, go on record against any changes that would harm the workers of the United States Postal Service, including legislation to close small offices, take away or modify the collective bargaining system of postal workers or change the current bargaining system for employee benefits; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable George W. Bush, President of the United States; the Postmaster General, United States Postal Service; the Honorable Richard Cheney, President of the United States Senate; the Honorable Dennis Hastert, Speaker of the United States House of Representatives; and each Member of the Maine Congressional Delegation.

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

READ and **ADOPTED**, in concurrence.

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 (2/24/04) Assigned matter:

HOUSE REPORTS - from the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Amend the Membership of the Revenue Forecasting Committee"
H.P. 10 L.D. 3

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-705)** (5 members)

Tabled - February 24, 2004, by Senator **CATHCART** of Penobscot

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

(In House, February 19, 2004, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, February 24, 2004, Reports **READ**.)

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. I'm not quite sure why, but this particular division happens to fall along partisan lines. The original intention of the bill was to infuse into the Revenue Forecasting Committee input directly from a member of the private sector. As the bill was originally crafted, it sought to replace one member and add a member from the private sector. The minority report, which I hope you will move on to and accept, increases the membership of the committee by one and insures that we have private

sector input directly on the committee. It is my opinion that this will only enhance the work of the Revenue Forecasting Committee and I hope you will join me in voting against the pending motion so we can move on and accept the minority report. Thank you very much, Madame President.

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

Senator **CATHCART:** Thank you, Madame President, men and women of the Senate. I hope you will support the Ought Not to Pass majority report. The Appropriations Committee spent quite a bit of time on this subject, looking at the original legislation to decide whether, indeed, it would be advisable or necessary to change the makeup of the Revenue Forecasting Committee. We asked the Revenue Forecasting Committee and the Consensus Forecasting Commission for their advise on this. While, of course, they did not tell us that we should not add another person to that, they did not come up with any reason why it was necessary to add another person. We questioned that, if we did decide to add another person, if we added someone from a private for-profit business should we also add someone from a private not-for-profit business? The majority concluded in the end that 'if it ain't broke, don't fix it', that the Revenue Forecasting Committee and the system we have in place is working very well the way it is. I hope you will support the Ought Not to Pass. Thank you, Madame President.

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

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. If I could just make one more point to you, with respect to the commission. I would readily agree with the Senator from Penobscot, Senator Cathcart, that the commission has done good work and we continue to rely on its findings. That's not to suggest to you that it couldn't be made even better. I think if you were to defeat the majority Ought Not to Pass report and we moved on to the minority report, it would be an opportunity to enhance the information that flows to us and will only strengthen what we get from the Revenue Forecasting Committee. Thank you.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Cathcart to Accept the Majority Ought Not to Pass 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 (#288)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, THE PRESIDENT PRO TEM - SHARON A. TREAT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MAYO, MITCHELL, NASS, SAVAGE, SAWYER, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

ABSENT: Senator: SHOREY

EXCUSED: Senator: DAGGETT

17 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **CATHCART** of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED.**

The Chair laid before the Senate the following Tabled and Later (3/22/04) Assigned matter:

JOINT ORDER - Authorizing the Joint Standing Committee on Inland Fisheries and Wildlife To Report Out a Bill Regarding Lead Discharges into State Waters

H.P. 1355

Tabled - March 22, 2004, by Senator **GAGNON** of Kennebec

Pending - **FURTHER CONSIDERATION**

(In House, January 15, 2004, **READ** and **PASSED**.)

(In Senate, March 18, 2004, on motion by Senator **BRYANT** of Oxford, **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.)

(In House, March 19, 2004, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.)

On motion by Senator **BRYANT** of Oxford, the Senate **ADHERED**.

The Chair laid before the Senate the following Tabled and Later (3/22/04) Assigned matter:

SENATE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Prevent the Sale of Water Laced with Nicotine in Maine"

S.P. 587 L.D. 1631

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-436)** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-437)** (5 members)

Tabled - March 22, 2004, by Senator **BRENNAN** of Cumberland

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-436)** Report

(In Senate, March 22, 2004, Reports **READ**.)

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

Senator **WESTON:** Thank you, Madame President, men and women of the Senate. You just received a notice about this particular bill. Everything in it, I'm sure, is accurate. That's not the issue at hand. This bill bans a product just because we have the power to do it. It is not tied to science. It is not tied to FDA approval. It is not tied to anything other than the fact that we have the power to ban it. We may not like water that has nicotine in it. We may not like nicotine gum or patches or the rationale for any of them. We may not like smoking. I have never tried any of those products. I certainly am not going to be party to passing a bill just simply because we want it banned. We could go on to another report that ties it to all other tobacco products and treats it in that same manner. That is the proper way to deal with this product. What we previously had before us did tie the sale of nicotine water to FDA approval. That is gone. What you have before you is just a total ban because we have the power to do it. I ask you to vote against this motion and move on to the minority report. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President and members of the Senate. This bill came to the Health and Human Services Committee as a result of a bill that I sponsored which deals specifically with the question of putting nicotine into water. In fact, the company that owned the franchise and was marketing it in Maine did subsequently pull it off the market and actually has sold the trademark. In fact, the company owned it actually went to the Federal Drug Administration and asked for approval. It was denied. Subsequently what they did, when they didn't get the FDA

approval, was to turn it over and say that it was something that you would use like, for example, herbs, thus circumventing the law. That is the reason why the bill is here.

What has happened since that time, as you may or may not know, is a different company now owns the franchise. Now they are talking about also putting it in juices. My initial concern, of course, is what I see as the potential danger through sports at the high school level because the ad actually appeared in the Portland Press Herald paper in the sports page. It said if you can't smoke for whatever reason, and you can't because of whatever it is, here is a way which you can maintain your nicotine habit. Imagine students bringing it with them on the school buses. How is a coach ever going to know that you are not violating the team rules because you are maintaining your nicotine habit. Of course, once sports are done in the summer, you can go back to smoking your cigarettes and continue your smoking habit. That is the reason why I put in the bill. That is the reason why we should outlaw it in Maine. If we are the only state in the country, so be it. We ought to be. Let's lead.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Brennan.

Senator **BRENNAN:** Thank you, Madame President, men and women of the Senate. I think both previous speakers have made several very good points and I think that the good Senator from Waldo, Senator Weston, has also made a number of points that I think bear some response. I think it is logical to say that we should tie this product to ways we currently treat products that have nicotine in them now. The one fault in that logic is that this particular product has no FDA approval. In fact, what I'd like to do is just read to you, briefly, the comment from Dr. Dora Mills, who is the Director of the Bureau of Health, and her opposition to this particular product as it was available in the State of Maine. 'Nicotine is one of the most addictive substances. The sale of certain products that contain nicotine, such as Nicorette or Nicoderm, are regulated by the Food and Drug Administration. There is very little data suggesting that nicowater is effective as a nicotine replacement therapy. Moreover, it is likely that the FDA will determine that nicowater is a drug that requires appropriate testing prior to being marketed to the public. For these reasons, we support the legislation before you to ban the sale of nicotine laced water products in the State of Maine.' We have the Chief Health Officer for the State of Maine that believes that this is appropriate legislation, that this product does, in fact, have no medicinal purpose to it. We can cite research that supports that. As the Senator from Aroostook, Senator Martin, already pointed out, if it were to become available, we have companies now that are looking at different strategies that would circumvent FDA approval in order to bring this to market. I think, at this time, the most appropriate thing for us to do, as a state, is to support this legislation and I urge you to support the pending motion.

Off Record Remarks

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

Senator **WESTON:** Thank you, Madame President, men and women of the Senate. As usual, my good friend from Cumberland, Senator Brennan, has also made some good points. I wonder if that testimony from Dr. Dora Mills was for the original bill that did tie approval and sale of this product to science and to the FDA? What you have before you ties it to nothing except the whim of the legislature. It's a very bad precedent for us to be deciding on any product without tying it to science, if it was in some way harmful to our citizens. To simply ban a product is a bad precedent. I would hope that you would join with me in voting against this motion.

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

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. It's been implied that somehow we're setting a precedent in some way by banning this product. Certainly that is not the case. In fact, this legislature's job is to set standards. Our job is to determine what the values are for the people of this state. I think it is important that we let people know, particularly

the 4th graders that might be sitting upstairs, that we are not going to tolerate nicotine products entering in to the State of Maine. We're going to protect them. We're going to protect children from nicotine. We're going to do our best to set our standards in this state and to establish what our values are in this state. I would encourage a positive vote.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Brennan 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 (#289)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, THE PRESIDENT PRO TEM - SHARON A. TREAT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MAYO, MITCHELL, NASS, SAVAGE, SAWYER, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

ABSENT: Senator: SHOREY

EXCUSED: Senator: DAGGETT

17 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **BRENNAN** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-436)** Report, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-436) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

ORDERS

Joint Order

On motion by Senator **GAGNON** of Kennebec, the following Joint Order:
S.P. 780

ORDERED, the House concurring, that when the Senate adjourns Thursday, March 25, 2004 it does so until Monday, March 29, 2004, at 10:00 in the morning and when the House adjourns Friday, March 26, 2004, it does so until Monday, March 29, 2004, at 9:00 in the morning.

READ and **PASSED**.

Ordered sent down forthwith for concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

Senate at Ease.

Senate called to order by President Pro Tem **SHARON A. TREAT** of Kennebec County.

Off Record Remarks

Senator **DAVIS** of Piscataquis was granted unanimous consent to address the Senate off the Record.

Senator **CATHCART** of Penobscot was granted unanimous consent to address the Senate off the Record.

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

Senator **GAGNON** of Kennebec was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

On motion by Senator **GAGNON** of Kennebec, **ADJOURNED**, pursuant to the Joint Order, to Monday, March 29, 2004, at 10:00 in the morning.