

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-First Legislature
State of Maine

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

In Senate Chamber
Wednesday
May 14, 2003

Senate called to order by President Beverly C. Daggett of
Kennebec County.

Prayer by Reverend Clifton Davis, South Parish Congregational
Church in Augusta.

REVEREND DAVIS: Let us pray. Oh God who created the universe, the heavens, and the earth for our habitation, what moves us is to know that You care for the results of Your creative effort. You care for each person as if You cared for him or her alone. We ask You today to bless this body and each of its members in the work commissioned for them to do. Keep their spirits high and their humor robust, especially when things bog down or tensions mount.

We do not ask only for blessings for ourselves, oh God, but that in what we do, we might become a source of blessing to those whose voices cannot be heard, and yet whose needs are great.

Merciful God, for those who have left home and family in Maine for military service in foreign deserts, we pray that they will be kept safe and free from harm, and that peace might come to our world in our time. In the name of our God we pray. Amen.

Reading of the Journal of Tuesday, May 13, 2003.

Off Record Remarks

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

Senator **PENDLETON** of Cumberland requested and received leave of the Senate for members and staff to remove their jackets for the remainder of this Session.

PAPERS FROM THE HOUSE

Joint Resolution

The following Joint Resolution:

H.P. 1191

JOINT RESOLUTION MEMORIALIZING CONGRESS TO
CONTINUE AMERICORPS FUNDING FOR THE
STATE OF MAINE

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

WHEREAS, AmeriCorps is the domestic version of the internationally respected Peace Corps. It consists of 70,000 volunteers who serve either full-time or less than full-time in local schools and nonprofit agencies. AmeriCorps members perform volunteer service that meets a community need and recruit citizens to work alongside them; and

WHEREAS, over 1,500 Maine people have served full-time and part-time in Maine communities through the federally funded AmeriCorps program during the past 9 years; and

WHEREAS, during 2003, nearly 200 AmeriCorps volunteers are scheduled to serve in Maine communities to help local nonprofit, educational and municipal organizations address critical health, environmental, educational, housing, public safety and homeland security issues; and

WHEREAS, Maine AmeriCorps members are catalysts, building stronger communities by engaging, on average, 32 local citizens per AmeriCorps member in volunteer service that solves local problems and meets critical local needs. In 2003, AmeriCorps members can be expected to meet or exceed their 2002 success of 9,000 citizens recruited and placed in service to communities; and

WHEREAS, in just the last 4 years, AmeriCorps service has qualified Maine citizens for over \$2,100,000 in federal financial aid for higher education or payment of student loans; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and request that the Congress of the United States recognize the valuable role AmeriCorps plays in Maine communities. We request that AmeriCorps be funded as needed in these times of budget cutting across the Nation in the fiscal year 2003 supplemental budget so that Maine communities are able to receive help from AmeriCorps volunteers and meet the critical needs of our citizens; and be it further

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

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

READ and **ADOPTED**, in concurrence.

COMMUNICATIONS

The Following Communication: S.C. 235

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

May 12, 2003

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 bills out "Ought Not to Pass":

- | | |
|-----------|--|
| L.D. 114 | An Act to Enhance Trail Revenue |
| L.D. 196 | An Act Requiring Reflective Registration Numbers on Snowmobiles |
| L.D. 448 | An Act To Exempt a Watercraft That Is Equipped with an Electric Outboard Motor from Paying a Fee for the Certificate of Number |
| L.D. 1161 | An Act To Exempt Saltwater-only Boats from the Lake and River Protection Sticker Requirements |
| L.D. 1255 | An Act To Permit Sebago Lake Mooring Extensions |
| L.D. 1366 | An Act To Ensure Boating Safety |
| L.D. 1474 | An Act Concerning Public Boat Launch Sites |
| L.D. 1503 | An Act To Limit the Size of Motorboat Engines Used on Paradise Pond |

We have also notified the sponsors and cosponsors of each bill listed 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.**

ORDERS

Joint Resolution

On motion by Senator **DAMON** of Hancock (Under suspension of the rules, cosponsored by Representative **BULL** of Freeport and Senators: **BROMLEY** of Cumberland, **EDMONDS** of Cumberland, **HALL** of Lincoln, **PENDLETON** of Cumberland, **STRIMLING** of Cumberland, Representatives: **BOWEN** of Rockport, **KAELIN** of Winterport, **McNEIL** of Rockland, **MOORE** of the Passamaquoddy Tribe, **MUSE** of Fryeburg, **PERCY** of Phippsburg, **PINGREE** of North Haven), the following Joint Resolution:
S.P. 568

**JOINT RESOLUTION EXPRESSING SUPPORT FOR LOCAL,
STATE AND INTERNATIONAL ACTION TO CONSERVE THE
GULF OF MAINE**

WHEREAS, the Gulf of Maine is an essential cultural, environmental and economic resource that Maine has relied on for generations; and

WHEREAS, this international watershed, which we share with Massachusetts, New Hampshire, New Brunswick and Nova Scotia, is under threat from increasing population pressure, resource exploitation and habitat degradation; and

WHEREAS, since 1989 the 3 states and 2 provinces bordering the Gulf of Maine, in concert with the federal governments of the United States and Canada, have enjoyed a rich and unique relationship through their participation in the international Gulf of Maine Council on the Marine Environment; and

WHEREAS, the nations of the world gathered at the World Summit on Sustainable Development in 1992, subsequently creating the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities and encouraging the nations to reverse the pollution of our oceans; and

WHEREAS, the stakeholder-based Global Programme of Action Coalition for the Gulf of Maine was formed to galvanize action on these issues from a grassroots perspective and resulted in a series of citizen forums about the Gulf of Maine; and

WHEREAS, the Gulf of Maine Council on the Marine Environment's 2001-2006 Action Plan, based on extensive stakeholder input, identifies over 50 actions pertaining to coastal and marine habitat degradation and contaminants in the marine food chain that require coordinated international action; and

WHEREAS, the states and provinces, federal agencies, nongovernmental organizations, First Nations and the business community are organizing an October 2004 State of the Gulf Summit to document the health of this international water body, to draw attention to the environmental and economic threats to this world-class resource and to develop strategies for future collective action; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-first Legislature of the State of Maine now assembled in the First Regular Session, acknowledge and support improving the conservation and management of the Gulf of Maine's habitats, its watershed and its resources through international collaboration as a priority; and be it further

RESOLVED: That we endorse the participation of representatives of the Joint Standing Committee on Marine Resources in the 2004 State of the Gulf Summit to become well-informed on actions the State should consider for the protection of its gulf waters; and be it further

RESOLVED: That a suitable copy of this resolution, duly authenticated by the Secretary of State, be submitted to the Gulf of Maine Council on the Marine Environment.

READ.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Damon.

Senator **DAMON:** Thank you, Madame President. The resolution that I have presented, recognizing the Gulf of Maine, is an important resolution, I think, given that the fair amount of our border is on that particular body of water. It has tremendous economical significance to the State of Maine. I would urge the members of the Senate to support its' adoption. Thank you, Madame President.

On motion by Senator **DAMON** of Hancock, **ADOPTED.**

Sent down for concurrence.

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **LABOR** on JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO REQUIRE THE UNITED STATES DEPARTMENT OF LABOR TO EXAMINE ITS METHODOLOGY FOR CALCULATING RATES IN THE WOODS WAGE SURVEY, TO ESTABLISH HEAVY EQUIPMENT OPERATIONAL RATES AND TO REMOVE BARRIERS TO THE HEALTH AND SAFETY OF PERSONS HARVESTING FOREST PRODUCTS

H.P. 949

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Joint Resolution **ADOPTED.**

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

ADOPTED, in concurrence.

Ought to Pass As Amended

The Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Promote Alternatives in Group Self-insurance" H.P. 629 L.D. 852

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-338).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-338).**

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

READ ONCE.

Committee Amendment "A" (H-338) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act Relating to the Award of Attorneys' Fees and Damages under the Maine Human Rights Act"

H.P. 1043 L.D. 1424

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-332).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-332).**

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

READ ONCE.

Committee Amendment "A" (H-332) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **TRANSPORTATION** on Bill "An Act To Clarify and Update the Laws Concerning the Types of Transportation Vehicle Used To Transport Children"

H.P. 739 L.D. 1018

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-333).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-333).**

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

READ ONCE.

Committee Amendment "A" (H-333) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Require Continuing Education in the Cosmetology, Barbering, Aesthetics and Manicuring Fields"

H.P. 771 L.D. 1054

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

Signed:

Senator:

BROMLEY of Cumberland

Representatives:

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

The Minority of the same Committee on the same subject reported that the same **Ought To Pass**.

Signed:

Senators:

HALL of Lincoln
SHOREY of Washington

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

Reports **READ**.

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

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act to Create a Crime of Refusing an Alcohol Test in Operating-under-the-influence Cases"

H.P. 267 L.D. 324

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

Signed:

Senators:

STRIMLING of Cumberland
HATCH of Somerset
CARPENTER of York

Representatives:

BUNKER of Kossuth Township
MAIETTA of South Portland
GROSE of Woolwich
GERZOFKY of Brunswick
CHURCHILL of Washburn

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-314)**.

Signed:

Representatives:

SYKES of Harrison
GREELEY of Levant
BLANCHETTE of Bangor
SNOWE-MELLO of Poland
LESSARD of Topsham

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

Reports **READ**.

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

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Protect Public Safety Using DNA Data of Juvenile Violent Offenders"

H.P. 300 L.D. 380

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

Signed:

Senators:

HATCH of Somerset
CARPENTER of York

Representatives:

BUNKER of Kossuth Township
BLANCHETTE of Bangor
LESSARD of Topsham
GROSE of Woolwich
SNOWE-MELLO of Poland
GREELEY of Levant
MAIETTA of South Portland
SYKES of Harrison
CHURCHILL of Washburn

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

Signed:

Senator:

STRIMLING of Cumberland

Representative:

GERZOFISKY of Brunswick

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-313)**.

Reports **READ**.

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

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Eliminate Discrimination Against Parents Who Want to Send Their Children to Religious Private Schools"

H.P. 141 L.D. 182

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

Signed:

Senators:

DOUGLASS of Androscoggin
BRENNAN of Cumberland
MITCHELL of Penobscot

Representatives:

CUMMINGS of Portland
GAGNE-FRIEL of Buckfield
FINCH of Fairfield
LEDWIN of Holden

NORTON of Bangor
THOMAS of Orono
FISCHER of Presque Isle
DAVIS of Falmouth

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-324)**.

Signed:

Representatives:

MURPHY of Kennebunk
ANDREWS of York

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

Reports **READ**.

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

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

Divided Report

The Majority of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Prohibit Personal Watercraft on Rocky Pond in Orland"

H.P. 107 L.D. 98

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

Signed:

Senators:

BRYANT of Oxford
CARPENTER of York
KNEELAND of Aroostook

Representatives:

DUNLAP of Old Town
RICHARDSON of Greenville
TOBIN of Dexter
HONEY of Boothbay
McGLOCKLIN of Embden
WHEELER of Kittery
WOTTON of Littleton
WATSON of Bath
PINEAU of Jay

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-340)**.

Signed:

Representative:

TRAHAN of Waldoboro

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

Reports **READ**.

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

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act To Provide That Employee Terminations by Any Company That Receives Monetary Benefits from the State Require Just Cause" H.P. 860 L.D. 1163

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-175)**.

Signed:

Senators:

EDMONDS of Cumberland
STANLEY of Penobscot

Representatives:

SMITH of Van Buren
HUTTON of Bowdoinham
HATCH of Skowhegan
PATRICK of Rumford
JACKSON of Fort Kent
WATSON of Bath

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

Signed:

Senator:

BLAIS of Kennebec

Representatives:

CRESSEY of Baldwin
HEIDRICH of Oxford
NUTTING of Oakland
TREADWELL of Carmel

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **FAILED PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-175)**.

Reports **READ**.

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

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Restrict the Appearance of Referenda on Ballots at General Elections

H.P. 962 L.D. 1308

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-300)**.

Signed:

Senators:

LEMONT of York
MAYO of Sagadahoc

Representatives:

GLYNN of South Portland
HOTHAM of Dixfield
BROWN of South Berwick
MOORE of Standish
BLANCHETTE of Bangor
JENNINGS of Leeds
LANDRY of Sanford

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

Signed:

Senator:

GAGNON of Kennebec

Representatives:

CLARK of Millinocket
PATRICK of Rumford
CANAVAN of Waterville

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

Reports **READ**.

Senator **GAGNON** of Kennebec moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence.

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act Concerning Municipal Firearms Discharge Ordinances"

H.P. 781 L.D. 1063

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-321)**.

Signed:

Senator:

GILMAN of Cumberland

Representatives:

McLAUGHLIN of Cape Elizabeth
STONE of Berwick
KETTERER of Madison
CROSTHWAITE of Ellsworth
BARSTOW of Gorham
BOWEN of Rockport
SUSLOVIC of Portland
SUKEFORTH of Union
BUNKER of Kossuth Township

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

Signed:

Senators:

ROTUNDO of Androscoggin
LaFOUNTAIN of York

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-321)**.

Reports **READ**.

Senator **ROTUNDO** of Androscoggin moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

At the request of same Senator a Division was had. 15 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **ROTUNDO** of Androscoggin to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**, **PREVAILED**.

Sent down for concurrence.

Divided Report

The Majority of the Committee on **UTILITIES AND ENERGY** on Bill "An Act To Ensure Proper Funding of the Public Utilities Commission"

H.P. 759 L.D. 1042

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-319)**.

Signed:

Senators:

HALL of Lincoln
BROMLEY of Cumberland
YOUNGBLOOD of Penobscot

Representatives:

RINES of Wiscasset
FLETCHER of Winslow
LUNDEEN of Mars Hill
MOODY of Manchester
ADAMS of Portland
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 Not To Pass**.

Signed:

Representative:

CRESSEY of Baldwin

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-319)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-319) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **UTILITIES AND ENERGY** on Bill "An Act To Authorize Water and Wastewater Districts To Lease Their Assets"

H.P. 926 L.D. 1252

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

Signed:

Senators:

HALL of Lincoln
BROMLEY of Cumberland
YOUNGBLOOD of Penobscot

Representatives:

RINES of Wiscasset
FLETCHER of Winslow
LUNDEEN of Mars Hill
MOODY of Manchester
CRESSEY of Baldwin
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 Not To Pass.**

Signed:

Representative:

ADAMS of Portland

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-316).**

Reports **READ.**

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

READ ONCE.

Committee Amendment "A" (H-316) **READ** and **ADOPTED**, in concurrence.

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

Senate

Ought to Pass As Amended

Senator BROMLEY for the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Refine the Maine Rural Development Statutes"

S.P. 464 L.D. 1408

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-148).**

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

READ ONCE.

Committee Amendment "A" (S-148) **READ** and **ADOPTED.**

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

Sent down for concurrence.

Senator BROMLEY for the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act Regarding Eligibility under the Municipal Investment Trust Fund"
S.P. 523 L.D. 1554

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-149).**

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

READ ONCE.

Committee Amendment "A" (S-149) **READ** and **ADOPTED.**

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

Sent down for concurrence.

Senator GAGNON for the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Authorize the State To Establish a Multijurisdictional Lottery or Lottery Games"
S.P. 515 L.D. 1536

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-147).**

Report **READ.**

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

Senator MARTIN for the Committee on **NATURAL RESOURCES** on Bill "An Act Concerning Storm Water Management" (EMERGENCY)

S.P. 529 L.D. 1570

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-151).**

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

READ ONCE.

Committee Amendment "A" (S-151) **READ** and **ADOPTED.**

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

Sent down for concurrence.

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act To Clarify the Purchase of Military Time Served under the Maine State Retirement System"

S.P. 333 L.D. 992

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

Signed:

Senators:

EDMONDS of Cumberland
STANLEY of Penobscot

Representatives:

SMITH of Van Buren
HUTTON of Bowdoinham
HATCH of Skowhegan
PATRICK of Rumford
JACKSON of Fort Kent
WATSON of Bath

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

Signed:

Senator:

BLAIS of Kennebec

Representatives:

CRESSEY of Baldwin
HEIDRICH of Oxford
NUTTING of Oakland
TREADWELL of Carmel

Reports **READ**.

Senator **EDMONDS** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

Off Record Remarks

Divided Report

The Majority of the Committee on **NATURAL RESOURCES** on Bill "An Act To Ensure the Rights of Host Communities Regarding the Construction and Operation of State-owned Solid Waste Disposal Facilities"

S.P. 282 L.D. 803

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

Signed:

Senators:

MARTIN of Aroostook
EDMONDS of Cumberland
SAWYER of Penobscot

Representatives:

KOFFMAN of Bar Harbor
MAKAS of Lewiston
SAVIELLO of Wilton
THOMPSON of China
DAIGLE of Arundel
TOBIN of Windham
JOY of Crystal
ANNIS of Dover-Foxcroft

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-150)**.

Signed:

Representatives:

TWOMEY of Biddeford
HUTTON of Bowdoinham

Reports **READ**.

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

Sent down for concurrence.

Divided Report

The Majority of the Committee on **UTILITIES AND ENERGY** on Bill "An Act To Promote Energy Conservation"

S.P. 92 L.D. 233

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-145)**.

Signed:

Senators:

HALL of Lincoln
YOUNGBLOOD of Penobscot

Representatives:

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

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

Signed:

Representative:

GOODWIN of Pembroke

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (S-145) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **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:

Mandate

An Act To Establish the Lincoln and Sagadahoc Multicounty Jail Authority

S.P. 405 L.D. 1199
(C "A" S-103)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, and having received the affirmative vote of 29 Members of the Senate, with no Senators having voted in the negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Acts

An Act To Amend the Waste Management Laws Regarding the Spreading of Sludge on Land
H.P. 147 L.D. 188
(C "A" H-259)

An Act To List Agriculture as a Designated Use in Water Quality Standards
S.P. 162 L.D. 443
(C "A" S-106)

An Act To Allow the Transfer of Spirits within Existing Businesses
H.P. 342 L.D. 450
(C "A" H-229)

An Act Concerning the Issuance of a Temporary Liquor License
H.P. 358 L.D. 466
(C "A" H-268)

An Act To Provide Leadership in Addressing the Threat of Climate Change
H.P. 622 L.D. 845
(C "A" H-262)

An Act To Amend the Laws Governing the Qualification of Candidates
S.P. 321 L.D. 980
(C "A" S-108)

An Act To Establish Consistent Requirements for High School Course Credits and Diploma Eligibility
S.P. 328 L.D. 987

An Act To Amend the Motor Vehicle Laws
H.P. 907 L.D. 1233
(C "A" H-256)

An Act to Strengthen the Governmental Ethics Laws
H.P. 981 L.D. 1336
(C "A" H-267)

An Act To Decriminalize Unlicensed Shellfish Digging
H.P. 1038 L.D. 1415
(C "A" H-264)

An Act To Raise the Fee Cap for Dentists
H.P. 1074 L.D. 1469
(C "A" H-263)

An Act To Expedite the Removal of Overboard Discharge
H.P. 1090 L.D. 1493
(C "A" H-260)

An Act To Revise the Standards for Reporting Public Sector Workplace Deaths and Serious Injuries
S.P. 519 L.D. 1544

An Act To Codify the County Commissioner Districts as Apportioned by Public Law 2003, Chapter 43
H.P. 1183 L.D. 1609

An Act To Codify the House Legislative Districts As Apportioned by Public Law 2003, chapter 44

H.P. 1184 L.D. 1610

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

Resolves

Resolve, Directing the Bureau of Veterans' Services To Provide Assistance To Obtain Information Regarding Maine Members of the United States Armed Forces Presumed Lost or Deceased

H.P. 786 L.D. 1068
(C "A" H-269)

Resolve, To Update Water Quality Criteria

S.P. 491 L.D. 1485
(C "A" S-107)

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

Resolve, to Authorize Michelle Booker to Sue the State

H.P. 231 L.D. 288
(C "A" H-270)

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

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

PAPERS FROM THE HOUSE

Joint Resolution

The following Joint Resolution:

H.P. 1189

JOINT RESOLUTION COMMEMORATING THE NEW ENGLAND REGIONAL GROUP OF THE WAVES

WHEREAS, WAVES, which is the acronym for Women Accepted for Volunteer Emergency Service, became an established part of the United States Naval Reserve by an act of Congress signed by President Roosevelt on July 30, 1942 and was established to have women serve shore duty in the United States to free up the men to go overseas to fight in World War II; and

WHEREAS, it was established that the WAVES would only be needed during the wartime emergency, and the women would fill both traditional and nontraditional positions, including

administrative, medical, parachute rigger, instructor, air traffic controller and aircraft mechanic positions; and

WHEREAS, by the end of World War II, women constituted about 2 1/2% of the United States Navy's total strength, including approximately 8,000 officers and 76,000 enlisted WAVES, with 8,000 more women in training, in addition to 11,000 Navy Nurse Corps officers, 11,000 Coast Guard and 18,000 Marine Corps women on duty with the Navy, making a total of 132,000 women serving in the United States Navy during World War II; and

WHEREAS, the important contributions that the WAVES made were greatly needed, and they served their nation during World War II with distinction, hard work, honor and perseverance; and

WHEREAS, women were eventually inducted into the regular United States Navy after World War II and have steadily gained acceptance into all military roles, including combat, furthering a path that the WAVES of the United States Navy first established; and

WHEREAS, there are many WAVES veterans in the United States, and on May 15th to May 18th the New England Regional Group of the WAVES is having a conference in Rockport, Maine; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-first Legislature of the State of Maine now assembled in the First Regular Session, on behalf of the people we represent, take this opportunity to proudly express our sincere appreciation to the WAVES veterans of the United States for the dedicated service they have given our nation, and we welcome the New England Regional Group of the WAVES to Rockport, Maine with our congratulations and best wishes; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the leaders of this group with our best wishes and appreciation.

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

READ and **ADOPTED**, in concurrence.

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2003, June 30, 2004 and June 30, 2005" (EMERGENCY)

H.P. 1190 L.D. 1614

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

On motion by Senator **CATHCART** of Penobscot, **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and ordered printed, in concurrence.

REPORTS OF COMMITTEES

House

Divided Report

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Amend the Laws Governing Raffles Conducted in Connection with a 'Beano' Game"
H.P. 593 L.D. 816

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

Signed:

Senators:

GAGNON of Kennebec
MAYO of Sagadahoc
LEMONT of York

Representatives:

CLARK of Millinocket
GLYNN of South Portland
HOTHAM of Dixfield
BROWN of South Berwick
MOORE of Standish
PATRICK of Rumford
BLANCHETTE of Bangor
CANAVAN of Waterville
JENNINGS of Leeds

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-345)**.

Signed:

Representative:

LANDRY of Sanford

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

Reports **READ**.

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

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

The Majority of the Committee on **MARINE RESOURCES** on Bill "An Act to Amend the Eligibility Requirements for a Lobster and Crab Fishing License"

H.P. 220 L.D. 277

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
McNEIL of Rockland
KAELIN of Winterport

(Representative MOORE of the Passamaquoddy Tribe - of the House - supports the Majority **Ought Not to Pass** Report.)

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-331)**.

Signed:

Representatives:

ASH of Belfast
DUGAY of Cherryfield
MUSE of Fryeburg
BIERMAN of Sorrento
BOWEN of Rockport

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.

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Amend the Maine Pesticide Control Act of 1975 To Increase the Pesticide Product Registration Fee"

H.P. 1027 L.D. 1400

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-339).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-339).**

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

READ ONCE.

Committee Amendment "A" (H-339) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Clarify Maine Law Relating to Viatical Settlements"

H.P. 1035 L.D. 1413

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-347).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-347).**

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

READ ONCE.

Committee Amendment "A" (H-347) **READ** and **ADOPTED**, in concurrence.

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

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator LaFOUNTAIN for the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Clarify the Authority of the Attorney General To Seek Restitution and To Require the Superintendent of Insurance To Investigate Certain Insurance Practices"

S.P. 438 L.D. 1347

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-155).**

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

READ ONCE.

Committee Amendment "A" (S-155) **READ** and **ADOPTED.**

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

Sent down for concurrence.

Senator LaFOUNTAIN for the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Require Disclosure of Benefit Offsets under Disability Insurance Policies"

S.P. 476 L.D. 1438

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-154).**

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

READ ONCE.

Committee Amendment "A" (S-154) **READ** and **ADOPTED.**

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

Sent down for concurrence.

Senator EDMONDS for the Committee on **LABOR** on Bill "An Act To Authorize Certain Former Members of the Maine State Retirement System To Rejoin the Maine State Retirement System" (EMERGENCY)

S.P. 514 L.D. 1535

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-152).**

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

READ ONCE.

Committee Amendment "A" (S-152) **READ** and **ADOPTED.**

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

Sent down for concurrence.

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

Off Record Remarks

ORDERS OF THE DAY

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

SENATE REPORT - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Authorize the State To Establish a Multijurisdictional Lottery or Lottery Games"
S.P. 515 L.D. 1536

Report - **Ought to Pass as Amended by Committee Amendment "A" (S-147)**

Tabled - May 14, 2003, by Senator **GAGNON** of Kennebec

Pending - **ACCEPTANCE OF REPORT**

(In Senate, May 14, 2003, Report **READ**.)

Senator **MARTIN** of Aroostook moved to **INDEFINITELY POSTPONE** the Bill and accompanying papers.

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

Senator **MARTIN:** Madame President and members of the Senate, this bill goes to the issue of gambling. This is the multi-ball, super ball, or whatever they want to call it, which increases the pot to \$80 million. In my opinion, no one in Maine will ever win it. It just means more opportunity for Maine people to lose their money by gambling. If we're going to be faithful in terms of saying and taking oaths in terms of not being in favor of a casino, then I think we ought to be faithful to the question of whether or not we want to enhance gambling in this state. I would request, in order for Maine's people to know where we speak from, that the vote be taken by the yeas and nays.

Senator **MARTIN** of Aroostook requested a Roll Call.

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

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. I speak this morning about this bill, both with facts and a little bit of passion. It's Powerball, by the way. The facts of the situation here is that it would add another game to the Lottery Commission that estimates from BABLO indicate, potentially, \$8.6 million in the first year, and \$8.8 million in the second year. It is a choice that people in the State of Maine

have, whether or not to purchase a lottery ticket or not. We are finding, based on a poll that was done, that 66% of the Maine public would like to have the opportunity to buy Powerball and not have to drive to New Hampshire to buy the Powerball tickets. It's been shown, over and over again, that the higher the pots, the more tickets that are purchased. The likelihood of someone in Maine winning the Powerball is exactly the same as the likelihood of anyone else from any other state. You remember the old adage, if you remember your statistics class, that if you flip a coin 10 times and it comes up heads every time, on the 11th time, what are the odds of it coming up tails? It's still 50%. It's a random drawing. People like these games. People can play it if they chose to.

I have no passion about the lottery or lottery tickets. What I do have passion about is some of the things that are going unfunded in this state. I'd like to talk specifically about mental health. I'm hoping that, with this money, we can add some of the items that we've taken away in the supplemental budget, particularly in mental health. Realistically, are we going to be raising taxes? I don't think so. Realistically, are there more cuts to be had in some of the programs that are there? That's undoubtedly so. So, while there are people who praise ways in which local governments and businesses can attract new ways to attract revenues, this is one the state has found. \$8 million for mental health, \$8 million for education, or \$8 million for health and human services. Wherever we determine it ought to go, this body will decide where it will go. I'm not a big lottery player myself, but it's another game, and there are many games being offered by the Lottery Commission. I would encourage you to defeat this motion so we can go on to the majority report. Thank you.

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

Senator **STRIMLING:** Thank you, Madame President. I urge my colleagues to support the motion in front of us. Madame President, how many ways can we find to ask the poor to support our economic woes in this state? The speaker before me spoke about trying to make sure that we cover mental health. I dare say, it is inappropriate for us to step forward and say we should be pitting poor people against those who need mental health. In the same way in our budget conversation, we shouldn't be pitting kids who are in jails against kids who need mental health. We shouldn't be pitting people in our state in this way.

This is gambling, whether you are for or against the casino. I certainly believe this is gambling and I am against the casino. For that reason, I am opposed to this. Above and beyond that, regardless, this is just another way for us to dip into an inappropriate well to solve our budget crisis. I strongly encourage my colleagues to vote for this motion in front of us. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Mayo.

Senator **MAYO:** Thank you, Madame President and members of this body. I seldom speak on matters of gambling, but I think there is one thing that should be brought to your attention, that was brought to the attention of the committee when it voted this particular bill out. That is the fact that the \$8 million that we are talking about, most, if not all of it, is currently being spent by people in this state who are purchasing tickets in New Hampshire for Powerball. I know, in particular, in my Senate district, that

there are two constituents who make a trip each week to New Hampshire and purchase thousands, and I say thousands, of dollars worth of tickets for people in the mid-coast area. This is not, unfortunately, going to be taking money from people who aren't currently spending it on these tickets. It's being spent all over the State of Maine in this way. We might, as a state, just as well capture it as to send it to our neighboring sister state. Thank you.

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. Some of the rhetoric here this morning reminds me of my daughter. Well, everybody is doing it, so why shouldn't we? I would simply ask you to peruse the fiscal note, S-137, and try to find the \$8 million that has been placed in the ether here this morning. The fiscal note says undetermined future revenue increases to the General Fund. Undetermined future revenue increases by the Special Revenue. Undetermined biennium cost increases. So while you hope for the \$8 million, I think the fact is that we have no idea. I do think the words that resonate from the Senator from Aroostook, Senator Martin, should ring true to all of those who are opposed to gambling, in its many forms, including casinos. Thank you very much.

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

Senator **MARTIN:** Thank you, Madame President and members of the Senate. I need to just go back to a little history. Go back to the day when we, the legislature, decided to put in the lottery. It was done in the late of night in order to balance the state budget, with the assumption that it was going to raise X amount of money. The money was going to go for education. I remember the night well. That night I said, 'it isn't going to happen' to those who supported it. We finally ended up putting it in the budget. Guess what? The revenues are about half of what they said it was going to be, even with all the changes that we have made in order to get people to gamble. Now we want to add another one, with the assumption that we might just raise state money. Of course we will, but let me point out that the net return to the people who play is far less than even what casinos do and will be far less revenue to the state in the long analysis. For us to balance the state budget by saying that we are going to take the money and put it towards the mentally retarded or the mentally ill, to me, is a joke. I just urge you to vote for indefinite postponement.

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

Senator **BENNETT:** Thank you, Madame President and fellow members of the Senate. I rise to support the pending motion, the motion to indefinitely postpone. Gambling is a loser. It is a loser for the state as well as for the people who participate in it.

As a former member of the Appropriations Committee, I watched the flat line of revenues on our lottery system. One of the reasons there is continuing pressure to expand the lottery operations is because the current regime is not delivering the goods that we expected of it for the state budget.

Further more, I am very gratified to hear from the Senator from Sagadahoc, Senator Mayo, that people with thousands of

dollars are trekking through Oxford County to spend their money in New Hampshire. Maybe a little of that will drop off the wagon on the way through to sustain our economy. I would submit that those people are probably going over there to buy liquor, computers, and whatnot else because New Hampshire has several advantages over us. This, if it is an advantage, is one that they can very well keep.

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

Senator **GAGNON:** Thank you, Madame President. Just to remind folks that this is a majority, unanimous, committee report from the committee. We have people on the committee who support gambling. There are people who don't support gambling. Most of the people, I think, just took a honest look at the reality of the situation. The reality of the situation is that people in Maine are buying lottery tickets in New Hampshire. They like to play Powerball. It's the latest and greatest thing. We have seen a decrease, in the Maine Lottery Commission, in revenues, but those states that have implemented Powerball have actually seen increases in their revenues in the last 3 years. To suggest that \$8 million coming into the state is not a reality, I think it would be very difficult to determine how many people are going to be playing and what the economy is going to be. That is what the BABLO, who was in charge of looking at these numbers, has come up with. I would be the first to say that I'm looking for it, in terms of revenue, to help some people who don't have choice, unlike the people who buy lottery tickets, when it comes to their needs. So I would encourage you to defeat the pending motion so we can go on to the committee report, which was unanimous. Thank you.

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Aroostook, Senator Martin to Indefinitely Postpone the Bill and accompanying papers.. 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 (#59)

YEAS: Senators: BENNETT, BLAIS, BROMLEY, CARPENTER, DAMON, DAVIS, DOUGLASS, EDMONDS, GILMAN, HALL, KNEELAND, MARTIN, NASS, PENDLETON, SAVAGE, SAWYER, STANLEY, STRIMLING, TURNER, WESTON, WOODCOCK

NAYS: Senators: BRENNAN, BRYANT, CATHCART, GAGNON, HATCH, LEMONT, MAYO, MITCHELL, ROTUNDO, TREAT, YOUNGBLOOD, THE PRESIDENT - BEVERLY C. DAGGETT

ABSENT: Senator: SHOREY

EXCUSED: Senator: LAFOUNTAIN

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

Sent down for concurrence.

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

HOUSE REPORTS - from the Committee on EDUCATION AND CULTURAL AFFAIRS on Bill "An Act to Eliminate Discrimination Against Parents Who Want to Send Their Children to Religious Private Schools"

H.P. 141 L.D. 182

Majority - **Ought Not to Pass** (11 members)

Minority - **Ought To Pass as Amended by Committee Amendment "A" (H-324)** (2 members)

Tabled - May 14, 2003, by Senator **GAGNON** of Kennebec

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

(In House, May 13, 2003, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 14, 2003, Reports **READ**.)

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

Senator **MARTIN:** Thank you, Madame President, members of the Senate. I rise today in opposition to L.D. 182, 'An Act to Eliminate Discrimination Among Parents Who Want to Send Their Children to Religious Private Schools'. While the title of the bill sounds appealing, its' effects, whether intended or unintended, will have dire consequences for the citizens of the State of Maine.

I submit that there are a number of reasons that this bill should be rejected. These reasons are compelling and have as their roots the sovereign prerogatives of the people of Maine regarding how and in what manner public funds can and should be used in supporting public education for the children of Maine.

At the outset, it is important to clarify the meaning of the recent Supreme Court decision which the proponents of the bill have been relying upon. The case of Zelman v. Simmons-Harris decided what a state may do regarding public funding of religious schools. It did not decide what Maine must do.

In no way did that decision limit the sovereign powers of the people of the State of Maine, through their duly elected representatives, to decide whether to fund religious schools. Publicly funding the education of our children is the most important and vital function of our state, and as a representative of the people of this state, I do not intend to abandon my responsibility to decide what is best for our children.

The Supreme Court case did not take that responsibility away from this body and we should carefully exercise the sovereign discretion over our educational system.

Because we retain a responsibility of a publicly funded education, we must look carefully at what we believe is an appropriate form of education for our children. I submit that our publicly funded education system works best when the education is one of diversity and assimilation. An educational system that promotes tolerance and assimilation by educating all of our children together, without regard to religious affiliation and without promoting religious view points, is preferred. Non-religious publicly funded education has been the norm in Maine and elsewhere in our country, and the 'melting pot' effect of this, on our children is what makes this state and this country great. Religious neutrality in the classroom is best.

Bringing all of our children together, no matter what their religious affiliation or background, promotes democracy, tolerance, and what is best in all of us.

The alternative offered by this bill, I submit, is contrary to that preferred approach. The bill could create and promote 'separate and sectarian' educational systems.

Fifty years ago, the Supreme Court rejected as unconstitutional publicly funded 'separate but equal schools,' where the education system funded separate schools based on race. The bill would have us fund 'separate and sectarian' schools where the educational system funds separate schools based on religion.

While citizens most certainly have the right to attend those schools, I do not believe that we should spend our tax dollars to fund the schools. Rather, we should use our limited dollars for schools, whether the public or private under our tuition programs, that are non-religious and that are neutral on religion.

Not only is this bill bad public policy, it is bad governmental policy. Government and religion should be separate. Separation of church and state is firmly established in this state and country. It is appropriate and necessary for the Department of Education and local education officials to ensure that what is being taught at publicly funded elementary and secondary schools is in keeping with the appropriate cultural morals and values of America. That can be done at public schools and private non-religious schools that receive public funding.

The proponents of the bill would demand public funds for private religious schools because, under the tuition program, public funds can be used for private non-religious schools. But the non-religious schools are just like public schools in that they are religiously neutral and can be held accountable. Government officials can review what is being taught in private non-religious schools to make sure what is taught is appropriate and not anti-American. Government officials cannot, and should not, review the religious teachings of religious schools, but that is exactly what we will be funding, religious teachings. The public funds could be used to teach intolerant religious views, but we could not review those without approving or disapproving of a religion. The government does not approve or disapprove of religious teachings, and everyone must agree that we should not fund anti-American teaching in the classroom. Since we cannot hold religious schools accountable for what they teach, we should not fund them. That is why I am for the majority ought not to pass report. Thank you, Madame President.

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

Senator **BENNETT**: Thank you, Madame President, and fellow members of the Senate. I rise to support the pending motion, but I want to be clear that I do not do so in complete agreement with the intent as put forward by the previous speaker, the Senator from Aroostook, Senator Martin. I suspect that several of us in the Senate, who will be voting against this bill and voting for the majority ought not to pass report, may actually believe that the intention of the underlying bill has validity.

The problem that I see is that the committee has put it before us with two reports, the ought not to pass report is before us. If that were to fail, the report that would likely come to us as the ought to pass as amended report, which just puts off for further study something which is being debated elsewhere.

So, for those reasons, I will be voting for the majority ought not to pass report. Thank you.

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

Off Record Remarks

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

HOUSE REPORTS - from the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Prohibit Personal Watercraft on Rocky Pond in Orland"

H.P. 107 L.D. 98

Majority - **Ought Not to Pass** (12 members)

Minority - **Ought To Pass as Amended by Committee Amendment "A" (H-340)** (1 member)

Tabled - May 14, 2003, by Senator **GAGNON** of Kennebec

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

(In House, May 13, 2003, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 14, 2003, Reports **READ**.)

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

Senate at Ease.

Senate called to order by the President.

The Chair laid before the Senate the following Tabled and Later (4/28/03) Assigned matter:

Bill "An Act To Establish the Pine Tree Development Zones Program"

S.P. 456 L.D. 1385

Tabled - April 28, 2003, by Senator **TREAT** of Kennebec

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (S-68)**

(In Senate, April 28, 2003, Report **READ** and **ACCEPTED**. **READ ONCE**. Committee Amendment "A" (S-68) **READ**.)

On motion by Senator **GAGNON** of Kennebec, Senate Amendment "B" (S-146) to Committee Amendment "A" (S-68) **READ**.

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

Senator **GAGNON**: Thank you, Madame President, men and women of the Senate. This is the long awaited Pine Tree Development Zone bill. I would like to discuss just the amendment that I am presenting and then allow others to talk about the bill more generally.

The amendment that I am presenting was a compromise that has been worked out for a number of people. Other than a number of technical changes that are within the bill, I'd like to highlight what some of the major pieces are. One of the items is that we are changing the average weekly wage test from the labor market to the county. We are adding the work 'or' rather than 'and' so communities meeting either the unemployment or the average weekly wage test could qualify. The third item, which I think is probably the most important to me, was that we are also allowing municipalities to work together. By working together, they can develop their own blended rate as to what the unemployment rate is going to be to allow multi-jurisdictional communities to work together. This is particularly important for my community that has been working with the City of Augusta at trying to develop the best offer that they can put forward. As most of you know, in the bill there is acreage that is allowed, you do not have to be contiguous. The City of Waterville, by itself, does not have enough property to really make this worthwhile and to be an attractive offer. The City of Augusta, by itself, doesn't have it either. So it is important, in my area anyways, that municipalities work together. It also goes at the issue that Executive has talked about, and many of us have talked about, in getting municipalities to work more closely together with some type of multi-jurisdictional approach.

I would encourage you to support the amendment and that we can go to move and support the bill. Thank you very much.

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

Senator **SAWYER**: Thank you, Madame President, men and women of the Senate. I do not speak against the bill, per se, because no one could legitimately be opposed to helping the hardest hit sections of the State of Maine. However, I continue to feel that this is a bit like thugs roaming the state with baseball bats. They are whacking on the head of every citizen that they

can find. Out of response, we install the finest first aid stations that money can buy to help those that are worst hit. Thank you.

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

Senator **BROMLEY:** Thank you, Madame President. As Senate chair of the Business, Research, and Economic Development Committee, I want to speak in favor of the pending motion and to let the body know that the purpose of the Pine Tree Zones is to say affirmatively that we want to move economic development into the most economically distressed areas of our state.

For those of us concerned about what we might be doing or not doing, I want to just remind those that may already know that the businesses that will qualify are those of financial services, manufacturing, or other targeted technologies. This part is important, businesses that pay an average per capita wage that is higher than the state average and businesses that offer health care. That is the 'who.'

The 'where,' as many of you know, are the four designated zones already designated in the areas of Androscoggin, Aroostook, Penobscot, and Washington Counties as well as competitive zones that meet the criteria.

The 'what' are a series of economic development tools to support businesses. The 'why' we all know all too well. The addition to the committee report, this amendment, which accomplishes what we are most supportive of, is the endorsement of the 'but for' test. We had a lot of discussions about the appropriateness of tax incentives for businesses that might have located here already. We put into the statute, as clearly as we can, the criteria that would assure that, were it not for the Pine Tree Zone statute, these businesses would not be locating there. This amendment shores up that piece. We are very proud of that and very happy to add that to the committee report.

I urge your acceptance of the pending motion. Thank you.

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

Senator **WOODCOCK:** Thank you very much, Madame President, ladies and gentlemen of the Senate. I rise today very supportive of the concept of Pine Tree Zones. We've been working on this for several weeks now. The location of the zones, four of them predetermined and four undetermined, is a very viable concept. I support that. I support the ability of communities within the state, who are currently depressed, to improve their lot. Certainly in Franklin County, we recognize that we have many of those communities.

The one portion of this amendment that does concern me, however, is the fiscal note. That is the creation of a new position in Maine Revenue Services, funded by \$72,000 in 2003 and 2004 and \$94,000 in 2004 and 2005. I have, from the beginning of this concept, felt very strongly that this could be managed within the existing state resources without having to add an additional fiscal note to it or certainly a new position to Maine Revenue Services, which will be the new body of jurisdiction as opposed to it originally being the Department of Economic Development. I still feel, today, that the Department of Economic Development, within its current resources, could manage this program efficiently. I do not support the necessary funding for a new position in Maine Revenue Services. Thank you.

Senator **MAYO** of Sagadahoc requested a Roll Call.

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

Senator **TURNER:** Thank you very much, Madame President, ladies and gentlemen of the Senate. I'm going to urge that you support the motion on Pine Tree Zones. I also would ask the members of this chamber to be mindful of the other pieces of legislation that will come before us, between now and the end of session, that will seek to increase the impediments to job creation, whether they are workers' compensation bills or unemployment compensation bills. You can't be pushing the creation of Pine Tree Zones and at the same time be seeking to increase the impediments on the rest of our job creation community. So I would ask that you be mindful of that as we go forward. Thank you very much.

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Gagnon to Adopt Senate Amendment "B" (S-146) to Committee Amendment "A" (S-68). 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 (#60)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DAVIS, EDMONDS, GAGNON, HATCH, MARTIN, MAYO, PENDLETON, ROTUNDO, SAVAGE, STANLEY, TREAT, TURNER, THE PRESIDENT - BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, DOUGLASS, GILMAN, HALL, KNEELAND, LEMONT, MITCHELL, NASS, SAWYER, STRIMLING, WESTON, WOODCOCK, YOUNGBLOOD

ABSENT: Senator: SHOREY

EXCUSED: Senator: LAFOUNTAIN

18 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **GAGNON** of Kennebec to **ADOPT** Senate Amendment "B" (S-146) to Committee Amendment "A" (S-68), **PREVAILED**.

Committee Amendment "A" (S-68) as Amended by Senate Amendment "B" (S-146) thereto, **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME**.

ROLL CALL (#61)

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

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

Senator **STRIMLING:** Thank you, Madame President. I assume we are now talking about the Pine Tree Zones themselves? Is that correct? I do rise in opposition to the Pine Tree Zones. I encourage my colleagues to speak against them, if they so desire, and to vote against them.

I want to say, up front, that I absolutely, 100%, every bone in my body and every ounce of my blood, support the intention of what this bill is trying to do, which is trying to create jobs in areas of this state that desperately need jobs. I also, with every bone in my body, say that this is not going to solve this problem and we are creating false hope in those communities. If we truly want to try to create jobs in those communities, we should invest in education, we should invest in roads, and we should invest in health care. We should take the millions of dollars that these Pine Tree Zones will cost the state and direct it directly into job creation, not into tax breaks for businesses.

Earlier today we had a bit of debate, and I was very pleased to see the Powerball go down. Here is a place, again, where if we truly want to try to provide money for mental health or provide money for all of the services that we find are so important, why are we now about to vote on a give away to corporations? To allow them free rein when they were going to move to those communities anyways?

I have seen scant evidence that ever shows that a business will move to a community because they can save a little bit of money on their taxes. They usually figure out where they want to go. They decide because the people there are well educated, its got good transportation, and then they go and strong arm the local city counsel or the state to try to reduce their costs. It is only after they have already made the choice. In fact, there are many surveys I see when I talk to CEOs about why they moved their corporation. Taxes are not even in the top 10. All the other things that we talked about are why they moved.

If we want to do economic development in these communities, let's take the money that we're going to be spending on these Pine Tree Zones and put it where it is really needed. Let's put it in the schools. Let's get these kids into college. That is what is going to create economic development in this state. Let's provide a health care system that allows businesses to lower their health care costs. That will get them to come here. That will increase revenue for the state in the General Fund so we can take that money and then invest it. Direct it directly into the communities in the areas that are in need. I encourage my colleagues today to vote against the Pine Tree Zones.

THE PRESIDENT: The pending question before the Senate is Passage to be Engrossed. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, KNEELAND, MARTIN, MAYO, PENDLETON, ROTUNDO, STANLEY, TREAT, YOUNGBLOOD, THE PRESIDENT - BEVERLY C. DAGGETT

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

ABSENT: Senator: SHOREY

EXCUSED: Senator: LAFOUNTAIN

19 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-68) AS AMENDED BY SENATE AMENDMENT "B" (S-146)** thereto.

Sent down for concurrence.

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later (5/7/03) Assigned matter:

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Protect and Encourage Firearms Shooting Ranges Throughout the State" H.P. 525 L.D. 719

Majority - **Ought to Pass** (7 members)

Minority - **Ought Not to Pass** (5 members)

Tabled - May 7, 2003, by Senator **TREAT** of Kennebec

Pending - motion by Senator **ROTUNDO** of Androscoggin to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**

(In House, May 6, 2003, Reports **READ** and the Bill and accompanying papers **COMMITTED** to the Committee on **STATE AND LOCAL GOVERNMENT**.)

(In Senate, May 7, 2003, Reports **READ**.)

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 Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#62)

YEAS: Senators: BRENNAN, BROMLEY, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LEMONT, PENDLETON, ROTUNDO, SAWYER, STRIMLING, TREAT, TURNER, THE PRESIDENT - BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BLAIS, BRYANT, CARPENTER, DAVIS, GILMAN, KNEELAND, MARTIN, MAYO, MITCHELL, NASS, SAVAGE, STANLEY, WESTON, WOODCOCK, YOUNGBLOOD

ABSENT: Senator: SHOREY

EXCUSED: Senator: LAFOUNTAIN

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 **ROTUNDO** of Androscoggin to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**, **PREVAILED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/13/03) Assigned matter:

Bill "An Act to Ban Smoking in Beano and Bingo Halls"
H.P. 186 L.D. 227

Tabled - May 13, 2003, by Senator **BRENNAN** of Cumberland

Pending - motion by same Senator to **RECEDE** and **CONCUR**

(In Senate, May 7, 2003, **PASSED TO BE ENGROSSED**, in concurrence.)

(In House, May 12, 2003, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-309)**, in **NON-CONCURRENCE**.)

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.

On motion by Senator **BENNETT** of Oxford, the Senate **RECEDED**.

Senator **MARTIN** of Aroostook moved the Senate **CONCUR**.

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

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

Senator **BENNETT:** Thank you, Madame President. We are now in a position where if we agree with the action of the other body we will vote to concur. If we think the bill is in less than perfect condition, we have the ability, if this fails, to take further action. I encourage a vote against concurring.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#63)

YEAS: Senators: BRENNAN, BROMLEY, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT, TURNER, THE PRESIDENT - BEVERLY C. DAGGETT

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

ABSENT: Senators: MAYO, SHOREY

EXCUSED: Senator: LAFOUNTAIN

17 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 2 Senators being absent and 1 Senator being excused, the motion by Senator **MARTIN** of Aroostook to **CONCUR**, **PREVAILED**.

The Chair laid before the Senate the following Tabled and Later (5/13/03) Assigned matter:

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, To Prepare Maine's Students for Active Citizenship (EMERGENCY)

H.P. 333 L.D. 425

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-239)** (9 members)

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

Tabled - May 24, 2003, by Senator **DOUGLASS** of Androscoggin

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

(In House, May 6, 2003, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-239).**)

(In Senate, May 13, 2003, motion by Senator **MITCHELL** of Penobscot to **INDEFINITELY POSTPONE** the Bill and accompanying papers **FAILED.**)

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

Senator **MITCHELL:** Thank you, Madame President, ladies and gentlemen of the Senate. I had asked that this be tabled yesterday to allow us to talk at the Education Committee meeting today. The Commissioner has advised me that she is more than willing, in a letter in writing, to concur with the request of the House chair of the Education Committee on what they would like to have included in the citizenship and the learning results that is not currently being addressed. We do not need to incur a task force of 15 people. We do not have to have our leadership and the Governor involved, and also be involved in the tracking of the money if the funding is accomplished. So I would, at this time, ask the request to table this until after the Education Committee meeting today be honored.

Senator **DOUGLASS** of Androscoggin requested a Division.

On motion by Senator **WOODCOCK** of Franklin, **TABLED** until Later in Today's Session, pending the motion by Senator **DOUGLASS** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence. (Division Requested)

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

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act To Provide That Employee Terminations by Any Company That Receives Monetary Benefits from the State Require Just Cause"

H.P. 860 L.D. 1163

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-175)** (8 members)

Minority - **Ought Not To Pass** (5 members)

Tabled - May 14, 2003, by Senator **EDMONDS** of Cumberland

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

(In House, May 7, 2003, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **FAILED PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-175).**)

(In Senate, May 14, 2003, Reports **READ.**)

Senator **WOODCOCK** of Franklin requested a Roll Call.

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

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. I would like to speak in support of the motion, Ought to Pass as Amended. This bill provides that employers with more than 50 employees, who receive tax incentive benefits, such as the business equipment tax reimbursement, may not terminate an employee except for just cause.

In case the term 'just cause' is not clear, and some people feel it isn't, what this means is that somebody needs to have a reason for firing somebody. You may think that people already have reasons for firing somebody. In fact, at this moment, you can fire somebody you employ just because you decide that day that you don't like them, want them, or anything else. From my point of view, if we are giving tax incentives, we are providing money to companies, it means we have a little more responsibility to how those companies behave toward the people that they hire. Some folks will say that this going to mean that you can't lay off seasonal workers or something like that. That is different. That is lay off. That is not termination.

This bill doesn't affect small businesses. It only has to do with businesses with 50 or more employees. I think the final, and more important public policy point, is that companies are taking this money in order to create jobs. Therefore, it doesn't make sense that they terminate people from those jobs. So I would urge you to join me in the majority, Ought to Pass as Amended, report.

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

Senator **SAWYER:** Thank you, Madame President, ladies and gentlemen of the Senate. I rise in opposition of the bill. We just went through a reasonable debate on Pine Tree Zones, with the avowed goal of increasing employment in the State of Maine. I would point out that, at least according to the latest numbers I've seen, Maine is 39th in the nation in what we pay our employees. I suggest to you that passage of this bill would do more to hurt raising our 39th in the nation average salary than passage of several Pine Tree Zone bills. I would encourage your vote in opposition to the motion before us. Thank you.

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

Senator **BLAIS:** Thank you, Madame President, men and women of the Senate. I ask you to join me today in opposing the majority report in regards to this legislation. Given our state's tax and regulation burden in comparison with the rest of our region, economic development tools are one of the few means available to attract new investment to our state. Maine would, again, set the pace in a march towards being the least friendly state in the nation in which to start and run a business. This legislation would act as a poison pill, adding a just cause standard for discharge or lay off, which would cripple the ability of an employer to maintain a productive and competitive workforce.

I am reminded of the parochial and derisive line that some in our state grumble in regard to our summer visitors; 'thanks for

visiting, now go home.' Maine is rapidly losing good paying jobs because the large businesses that provide those jobs can no longer afford to stay here. This legislation will make the situation worse by discouraging new investment and would seriously hamper the ability of the Chief Executive to attract new jobs to our state by using economic incentives. The Administration sent a strong message to our committee in opposition to this bill. Allow me to read from the testimony from the Department of Labor. 'While some states value a competitive advantage above other considerations, the foremost concerns of Maine taxpayers, the public trust and strict accountability, are written into the law that define every one of those incentives. The fundamental principle is that all state and local business incentives must be inherently performance based, meaning that they are tied directly to specific measures of business activity, such as capital investment or the creation and/or retention of jobs. Benefits are paid only upon completion of those activities. To put it simply, when a Maine business receives an incentive payment, taxpayers can be certain that it has already been earned, that the business has discharged its obligations relative to the payment, and that a lawfully defined public purpose has been achieved. This bill introduces a requirement that has no connection with the purposes for which these various incentives were created. Nor is it consistent with the performance measures currently in place.' That was from the Administration.

I ask you to consider the negative consequences of this legislation and join me in opposing the motion before us. We cannot afford to lose more good paying jobs or the opportunity to replace with new ones the ones that we are losing.

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

Senator **DOUGLASS:** Madame President, men and women of the Senate, I rise in support of the pending motion. Most people here in Maine don't have any idea how few rights they have as employees. Literally, you could work for a company for 49 years and be terminated the day of your 49th celebration because the company wants to hire someone else who is a sibling, a relative, who lives next door, or for any old reason, as long as it doesn't violate the only reasons that we do protect, that is race, gender, color, and a few others in the Human Rights Act. I've often been in the situation of telling people who come to me with a complaint about their treatment at the hands of an employer and say, 'that's unfair, there must be a law against it,' and I have to tell them that, in truth, we do not. We are an 'at will' state, which means, basically, that people can be terminated at will, unless you have a written contract, and you can be terminated for any reason, provided it doesn't relate to racial discrimination or one of the other protected categories.

This bill is about what we feel we should do, as employers in the State of Maine, for our employees. Albeit, indirectly. It's about those who contract with the state. I think we want to be good employers. Good employers are able to document when workers are not performing their jobs and that is all that is required for just cause. I urge you to vote in favor of the pending motion.

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

Senator **YOUNGBLOOD:** Thank you, Madame President, ladies and gentlemen of the Senate. I just wanted to add one brief comment from a function I was at last Saturday night. I happened to set at a table with one of the owners of a local, Bangor area, engineering firm. It's a partnership. It relates to the part of this bill that says, 'this only effects people who have over 50 employees.' His words to me were that they have more work right now than they have had in years. He presently has 48 employees. He has enough contracts on the books right now that he could easily add another 6 to 8 employees and probably keep that going for an extended period of time. He will not do that because he has had his representative look at the law and say, 'what happens to my business if I go over 50 employees?' The additional regulations, the additional requirements, that we, as the legislature, put onto business the minute they go to 50 and over is a very discouraging, anti-employment, attitude for an awful lot of businesses. This very good engineering firm is only one of them.

On that basis, and on that basis alone, while there are a lot of other things here, I would encourage you to vote against this motion. Thank you.

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

Senator **BRYANT:** Thank you, Madame President, ladies and gentlemen of the Senate. I'll just speak briefly on this. As we look at our state, and as we look at the companies that are in our state, there isn't one here that would tell you that they don't fire somebody for just cause. All this bill does is hold them at their word. So it does nothing more. I will just leave it at that. I would urge you to vote for the pending motion.

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

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. I would encourage you to vote in favor of the pending motion. During my previous 6 years in the legislature, I served on the Taxation Committee, chairing it for both bodies. We spent a great deal of time trying to figure out what it is meant when people tell us that the government ought to be run more like a business. While I don't believe that the government is a business, per se, I do think that it should be run with businesslike standards. We are all people who are making decisions with money that is provided to us by these shareholders in the State of Maine, the taxpayers in the State of Maine.

When we create a deal or program, there are certain standards in which we want to determine how those programs are established and what we expect in return for those programs. It always troubled me when we had economic development clauses, some type of tax benefit, or incentive, that, basically, didn't have any type of clear objective as to what the program is, number one, or what would happen if, in fact, the business that received the benefit didn't pony up. There has always been a great deal of hesitation to have any type of claw backs, or any something like that, in legislation. But here is a situation where we are taking taxpayer's money. We are taking money from our shareholders in the State of Maine. We are offering a deal to businesses, generally from out-of-state, not to the people who elect us, and we are asking them to abide by certain standards that is our standards in this state. Is this our standard or isn't it our standard? Now, it is not our standard if we don't give you

money. We haven't changed that. But if we were actually giving you money, as a business, then we would expect something in return. Namely development of jobs, and that the people who get these jobs are able to maintain their jobs, despite the fact that maybe somebody's brother-in-law moves into the state or they don't like the color of your shoes today. It's a simple standard.

I am hoping that you will join in establishing, for the people of the State of Maine, what a very simple standard would be for giving away their tax dollars to these businesses. Thank you.

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

Senator **BLAIS:** In terms of competitiveness, Maine is struggling to be competitive, not only regionally but nationally. The kind of companies that these incentives are designed to draw to our state tend to be national companies. This legislation, if it were to pass, would enable Maine to join one other state in this nation that has a provision such as this. In regard to employees, employees currently have a variety of protections, including the Whistle Blower Protection Act, the Maine Human Rights Act, a federal Civil Rights Act, the Americans with Disabilities Act, prohibitions against genetic discrimination, and the National Labor Relations Act. I would hope that you would join me in opposing this legislation, which is very bad for Maine business.

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

Senator **WOODCOCK:** Thank you, Madame President, ladies and gentlemen of the Senate. It's obvious, with only one state operating under a just cause standard, that there must be some consideration why the other states have not operated under this standard. My opinion would be that everybody is concerned about litigation. Therefore, I propose a question through the chair, if I might?

THE PRESIDENT: The Senator may pose his question.

Senator **WOODCOCK:** What is the definition of 'just cause'?

THE PRESIDENT: The Senator from Franklin, Senator Woodcock poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Androscoggin, Senator Douglass.

Senator **DOUGLASS:** Madame President and men and women of the Senate, just cause is what the employer draws up as being just cause. They define it completely. In other words, an employer decides what is required in order for a person to do their job and then also, for instance, what the work hours are, what the breaks are, and what the standards for conduct are. If the employer is a good one, they monitor their employees and determine whether or not their employees are meeting those standards. If they are not, that is just cause.

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

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. I just want to remind people that this only affects businesses with 50 or more employees if they accept tax

incentives. If they don't, this has not bearing on them at all. I guess I just also want to say to you, I live in a town, and probably lots of you have lived in similar towns, where recently there have been a lot of folks laid off. My husband works in a company where 45 people in his department got laid off. Those people were good workers. Lots of them had worked there for years. They had worked in that company for years. They were given no explanation about why they were laid off except, of course, the ubiquitous competitive problems.

I understand that this doesn't reach to that. I just think you have to look at people in the face when you go door-to-door and they say to you that they've been doing their job, been getting great reports, and all of a sudden, they are told, without even a heads up, that they are going to get fired. They are met at the door and told not to come in. At a place where they had been working for 20 years and had been doing a good job and getting good reports. They are met at the door, like some kind of criminal, and told they are 'out'. That is where my passion comes from with this kind of bill. People who are doing their job, getting good reports, and all of a sudden, out of the blue, boom, they are gone. Thank you.

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 PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Blais.

Senator **BLAIS:** Thank you, Madame President. I would just like to say that I sincerely hope that the purpose of this legislation, which would affect all of Maine's largest employers who take advantage of these incentives, is not to punish a single employer from Cumberland County.

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

Senator **BENNETT:** Thank you, Madame President, and fellow members of the Senate. I understand that there is passion on this issue, but just recently we passed a brand new scheme to help promote employment and job growth that would provide specific state benefits. These provisions, which I've heard people in this chamber arguing for, were not included in that bill. I just have to ask, rhetorically, of course, why not? If it's good in this case, then why isn't it good in a bill which is likely to pass and become the law of the land?

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Edmonds 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 (#64)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT, THE PRESIDENT - BEVERLY C. DAGGETT

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

ABSENT: Senators: MAYO, SHOREY

EXCUSED: Senator: LAFOUNTAIN

17 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 2 Senators being absent and 1 Senator being excused, the motion by Senator **EDMONDS** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-175) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-175)**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

SENATE REPORTS - from the Committee on **LABOR** on Bill "An Act To Clarify the Purchase of Military Time Served under the Maine State Retirement System"

S.P. 333 L.D. 992

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

Minority - **Ought To Pass as Amended by Committee Amendment "A" (S-139)** (5 members)

Tabled - May 14, 2003, by Senator **EDMONDS** of Cumberland

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

(In Senate, May 14, 2003, Reports **READ**.)

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

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. I urge you to join me in voting on the

Ought Not to Pass report. This bill is a little bit complicated. I'll try to walk you through it in a way that makes sense.

I can't remember who the sponsor was, but they brought it forward on behalf of a constituent of theirs. This person was a retirement system member who was told, that although he could purchase credit for military service from 1981 through 1984, when he was in the service, it would not count towards pre-1993 service because the law did not allow this purchase prior to 2001. The tricky part here is that, if you remember, 1993 was when big changes were made in the retirement system and the cliff was recreated. As it stands now, if we were to let this bill go forward and let this gentlemen buy back this military service time, this would actually put him before the cliff and give him a favorable retirement, which I dearly wish he could have. If you do it for this particular individual, you create a precedent for others, who then might be able to buy back military service and put themselves before the cliff.

I am completely and totally committed to getting rid of the cliff, but not this way. Not one little piece at a time. I think we have to solve the cliff question for everybody. We can't just give X, Y or Z people the opportunity to get themselves on the good side of the cliff when others, who don't have that opportunity, will be left on the bad side of the cliff.

I would urge you to join me in voting for the majority Ought Not to Pass report.

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

Senator **BLAIS:** Thank you, Madame President, women and men of the Senate. I would just like to say that I appreciate the effort of the good Senator from Cumberland, Senator Edmonds, to try to explain this bill because any of us who have sat in committee, trying to understand retirement system bills and changes, have usually left more confused than when we went in. I'm going to take a crack at trying to explain this as well.

To my understanding, the legislature passed a law in 2001 that specifically was designed to allow former members of military, that are in the Maine State Retirement System, to be able to use their military time, prior to 1993, assuming that they were employed prior to 1993 by the state, and to be able to combine it to create that 10 years necessary for the eligibility that would take them to the other side of the cliff. The problem with the 2001 law was the way the Maine State Retirement System interpreted the law. The law said that you could go back and buy the time to put yourself on the right side of the cliff, but it said that you could only do it if you did it back in 1993. The law was passed in 2001, so it created a catch 22 situation. The legislation that was brought to us in committee, was merely designed to clear up that technical problem with the language. The intent of the original law in 2001, was to allow them to buy their way out of the cliff. One of the concerns that the Maine State Retirement System brought forward and explained to us is that, as it was written, it would create an unfunded liability, which we have a constitutional provision against. I think there is a simple solution to this. That is to require that the members, who are buying that time, can take advantage of this provision, provided that they also pay the actuarial costs associated with that. That was the opinion of the minority on our committee. I hope that you will join me in opposing the motion that is on the floor, so that we can go on to pass the minority report and provide our military people with an

opportunity to purchase this time, pay the actuarial costs, and move themselves to the other side of the cliff.

To my mind, the notion that it's not fair to allow some people to buy themselves out of the cliff is a disrespect, not only to our military, but to everybody in the Maine State Retirement System. I think that we owe it to them to do everything we possibly can to help, especially if they are willing to pay for it, to move over the other side of the cliff. We've heard this from the people from the Maine State Retirement System over and over again. Please do anything that you possibly can. Well, this is an answer. This is something that we possibly can do and it will incur no cost to the system, no cost to the state, and just help people. I would hope that you would oppose this and allow us to go on to the minority report. Thank you very much.

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

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. I just want to remind you that, while I would join the good Senator from Kennebec, Senator Blais, in saying that we want to do all we can to support our military retirees, I absolutely do not think we want to create yet another cliff. Another situation where some set of people, by virtue of some factor, now get to buy themselves out of a difficulty that is facing thousands of state employees and teachers, who need to have this thing solved and it needs to be solved for everybody. Thank you.

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

Senator **WOODCOCK:** Thank you, Madame President, ladies and gentlemen of the Senate. I'm a veteran. Most of you know that. I can buy back my military time. Having known that the cost was so cheap, I probably would have served in Vietnam for 10 or 11 years, thereby being able to retire at an earlier date.

The problem with this is that we have this very valuable entity in our state called a cliff. I don't know who came up with that idea, but they should have put before it 'jump off.' What has happened to us, over the course of the years, is that we have a retirement system in this state for our state employees and others who are eligible for our retirement system, which is so very complicated. It is not parallel from one office in our state to another. If you have a son or daughter who is considering the service to the State of Maine, you ought to sit down with them immediately and point out to them that the retirement system is different in this section of the state, depending on which agency you are with. I think we'd be much better served if we took the monies dedicated to the Maine Revenue Services for the new positions for Pine Tree Zones and hired someone to explain the cliff and the retirement system to the people who go into the State of Maine's retirement system. It's obscene. The people in this state, who work for an agency jurisdictioned under the State of Maine, have a different retirement system than somebody else who also works for the same state.

I heard the good Senator from Cumberland, Senator Edmonds, say that she's adamantly opposed to the cliff. It would be a wonderful, and I'm going to use this legislative word, incremental step to send a strong message that the time has come and we need to make it right for the people who work for

the State of Maine and have a system that is parallel to other agencies within the state. Thank you.

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

Senator **MITCHELL:** Thank you, Madame President, ladies and gentlemen of the Senate. I would ask you to oppose the current motion so that we can go on and move to pass the minority Ought to Pass as Amended report. Yes, I had a constituent who brought this to my attention. He is a veteran. He presented his information and facts. Under the interpretation of the law as we passed it in this body, he would be able to purchase the time. Because of a misinterpretation of the Revenue Services Retirement Services, we did put this bill in simply to clarify, for their purposes, that you didn't have to purchase it on the year, which was prior to when we enacted the law, and that you could do it any time, as long as it pertained to prior to that particular date.

The fact is that he's paid into this already and the fact is that we can do something to correct this cliff situation for all veterans who are eligible. There are not many, but there are a few. It amazes me that we would not want to do this when there is no cost to the state. The person is going to be able to pay for this, 2 years, 3 years, or whatever they need and whatever they feel that they can do, if it's going to make a difference in their retirement. I don't think we should be pre-judging and say that because some can afford it and some can't, we shouldn't pass it and help people. We cannot place ourselves in that position, to make a determination of who can afford and who cannot afford it. It should be done and left open so that any veteran we can help by correcting the current situation in a law that we enacted 2 years ago. We should put through this clarification, which is of no cost, and allow these few veterans the opportunity. This is a way to show, in good faith, that we want to correct this cliff situation, if at all possible. As the good Senator from Franklin, Senator Woodcock, has brought to our attention, we should try to get rid of this cliff situation as much as we can in a legal way.

I would ask you to, please, oppose the current motion so that we can go on and help our good veterans by giving them the opportunity to have the pension that they deserve and are willing to pay for it and not cost the state anything.

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

Senator **SAWYER:** Thank you, Madame President, ladies and gentlemen of the Senate. I would propose to you that a cliff is not the best analogy to use in this case. A better analogy would be a sinking ship. If we came across a sinking ship, would we let all drown rather than saving a few at a time? Thank you.

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. It feels like déjà vu all over again, rising to debate a labor bill with my good friend from Cumberland, Senator Edmonds.

I do recall this bill, as a member of the Labor Committee in 2001. I'm somewhat surprised that it's back for clarification. Our intent, at the time, was to allow a military person to buy into the

system to incur additional credits, provided that there was no net cost to the retirement system. Any unfunded actuarial liability would have to be paid for by that person. So if we accept the motion before us, obviously that opportunity is foregone. I would urge that you vote against the pending motion so that we can move on to the minority report, and in fact, allow people to buy into the system for additional years as well as personally accepting the responsibility to pay for the unfunded liability. I can't, in good conscience, figure out why anybody would be opposed to such an opportunity. Any chance that we can give to allow people to accrue a better retirement system, we should vote in favor of. I would hope that you would vote against the pending motion so we can move on and accept the minority report. Thank you very much.

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

Senator **MARTIN:** Thank you, Madame President and members of the Senate. Let me just begin by indicating that there is a difference between buying back military time and paying for it and buying back time and paying the cliff. In response to the comments, or the questions perhaps, of the good Senator from Franklin, Senator Woodcock, as to where the cliff comes from; since I am one of the few persons who was around in those days, let me give you a little history.

The McKernan administration proposed this process of changing the retirement system in order to save state dollars. It was that simple. It's implementation, as it turns out, has not been simple. All these people who, if they didn't have the 10 years, were subsequently impacted by that and continue to be. There was a court decision on that at the same time. In effect, what we've done in this state is create a two-tier retirement system. Unfortunate, but true.

What you have in front of you is something, frankly, very difficult. It sounds appealing, but let me tell you why I'm going to oppose it. This has nothing to do about buying back military time. You can buy military time, and you have to pay the requirement of the retirement system and the law. What you have here is a situation where an individual is going to be in the cliff and is now going to be allowed to buy off the cliff. That's the issue that we need to be careful about.

Let me tell you one other problem. This is why I'm really opposed to this legislation. Those people, at the upper echelon of our governmental structure, the highly-paid state employees, will easily be able to pay off this cliff. Those people who are not, such as the teachers of this state, will not be able to afford that when you look at the amount that they have to pay to buy off the cliff. If it were as simple as saying let everyone be able to buy, that would be one thing, if they could afford it. You now are going to create a situation where those people who are making \$50,000 or more are going to be able to afford to buy off that cliff. Those state employees who have worked for us for 30 years, and whose salaries are in the \$30,000 range, and teachers are in that category, would need an entire year's salary in order to buy off the cliff. That's the danger. If we go along with this bill, you would now be creating two cliffs. One that you can afford to get off, and one you can afford to get on. That is the danger.

We need to deal with the issue of the cliff. It's unfair, but it was what the Governor, at that time, and the legislature, at that time, did. Not that anyone really liked it, but it was done. I think it would be worse to complicate the problem. I think it would be a

real mistake. I can go on, if the good Senator from Franklin, Senator Woodcock, wants to talk about the politics of why it happened. I could go on for days on that one. I'd be more than happy to do it privately, publicly, or any other place.

Senator **DAVIS** of Piscataquis requested a Roll Call.

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

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. I just have to say that I am delighted to be able to be standing up and debating my good friend from Cumberland, Senator Turner, again on these topics. I wanted to add one thing that I think he might not be aware of. When the retirement system came to us, in discussing this bill, they basically said they didn't realize what was going to happen here. They didn't realize the question of the cliff. Their recommendation was that we do what I hope we are able to do, and defeat this so that it is just a prospective arrangement where people can buy back their military time, as Senator Martin has said. It does not get into the question of the cliff. It's good to be debating you again, sir.

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

Senator **TURNER:** I've been listening to the back and forth on this matter, and the only reason I seem to be hearing as to why we should support the pending motion is starting to feel like class warfare. If you are relatively well compensated, we should not allow you to do this. I don't understand. I don't know how many employees in state service have less than 20 years of service at this point, either as a state employee or as a member of teacher's retirement system, make more than \$50,000, and have served in the military. I don't think that should be relevant. We ought to be looking at this strictly from the standpoint of is this a way to allow somebody to incur retirement benefits and for them to assume all the obligations of incurring that benefit? For the life of me, I can't understand why one would be opposed to that being done. Thank you very much, Madame President.

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

Senator **HATCH:** Thank you, Madame President, ladies and gentlemen of the Senate. I want to thank the good Senator from Aroostook, Senator Martin. I was here in 1992-1993 when we made the changes to the retirement system. I was appointed to that committee. I sat there, as we balanced the budget on the backs of the state employees and the teachers for \$120 million, and I voted against that budget. This was much to the dismay of the leadership because we were trying to fix a broken system with a lack of money, much like it is now. I served on that committee for 8 years, labor and retirement. I know it may not seem interesting to a lot of you, but we also made it so people could buy back their retirement time when they had served in the

service. So, it is not something new, that was done over the course of those 8 years from 1992 until 2000.

When you buy back that time, it's like you bought it from here forward. It's not from here back. I think it is a special interest bill if you served time prior to that, and you want to buy back that military time. We allowed people to buy back, but we didn't set back the clock. It was from this moment forward so that they could get in their 20 years or 25 years or whatever. So, this is a special interest bill. I was proud to be sitting on my side of the aisle with the Democrats who stood up against the budget that year. There weren't many of us, but there were a handful. I just want you to know, we go through trying times all the time and this is a special interest bill because it involves one person. A lot of people have already bought back their military time because they were in that cliff, but it didn't pull them out of the cliff, they are still in it. Thank you.

THE PRESIDENT: The Senator from Kennebec, Senator Blais, requests unanimous consent of the Senate to address the Senate a third time on this matter. Hearing no objection, the Senator may proceed.

Senator **BLAIS:** Thank you very much, Madame President. Thank you, women and men of the Senate. I respect the comments of the good Senator from Somerset, Senator Hatch. She must be experiencing déjà vu all over again in regard to the money that was taken out of the retirement system to fund our state budget because we went ahead and did it again this year. I voted against that provision on committee and I voted against the budget, partly because of that.

During the most prosperous times that this state has experienced in perhaps a generation, this legislature failed to take action to address the problem of the cliff and the unfunded liability. In our next session, it will be beyond us. I think it would be reprehensible for us to fail to take action now that would allow at least some people to be able to buy their way out of the cliff. In fact, because we're talking about military people here, I would join the Senator from Cumberland, Senator Edmonds, in sponsoring legislation that would allow anybody in the Maine Retirement System that finds themselves on one side of the cliff to be able to pay the actuarial costs and pull themselves onto the more favorable side of that and buy themselves out of it.

I also appreciate the comments of my colleague, the good Senator from Penobscot, Senator Sawyer, in trying to understand this issue in simpler terms. What I'm hearing today is that we have a house that is burning, and we recognize that there is very little that we can do about it. The people on the first floor have the ability to walk out the door, but because the people on the second floor maybe hampered in their ability to get out, we're going to slam the door on everybody. I would hope that you would join me in opposing the motion on the floor. Thank you very much.

THE PRESIDENT: The Chair recognizes the Senator from Arostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President and members of the Senate. Let me again remind you that this has nothing to do with buying military time. Absolutely nothing. It has to do entirely with the question of the cliff issue. That is what we are talking about. In terms of class warfare, possibly that is the way it is going to be, but it's going to be superintendents and principals

versus teachers one more time. That is where the break is going to occur. It will be state employees, who are in the upper echelon. The cliff is a serious problem. It didn't occur, necessarily, because of lack of money at that time, in the early 1990's. It occurred because there were some people who believed that the state retirement system, and what it gave its employees upon retirement, was too much money. It was a way to restrict that. That is part of our problem. That is the debate. This bill solves nothing. What it does is create far more problems than you wish you had never created. That is my fear. If it was simply an issue of someone who has been told misinformation, acquired misinformation, and it didn't effect other people out there, that would be a totally different issue.

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

Senator **MITCHELL:** Thank you, Madame President. I would like to refer to the current law, as it is written. The Senators who may have in question whether this is to buy back military time or not, are certainly welcome to review this section of the law that we enacted 2 years ago. It does state that a member is eligible to purchase, on June 30, 1993, pursuant that the member does purchase in accordance with the rules adopted by the board. It does reflect the fact that these people are eligible to buy back time. It is the current law.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Edmonds 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 (#65)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT, THE PRESIDENT - BEVERLY C. DAGGETT

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

ABSENT: Senators: MAYO, SHOREY

EXCUSED: Senator: LAFOUNTAIN

17 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 2 Senators being absent and 1 Senator being excused, the motion by Senator **EDMONDS** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

On motion by Senator **TREAT** of Kennebec, **ADJOURNED** to Thursday, May 15, 2003, at 10:00 in the morning.