

MAINE STATE LEGISLATURE

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

Volume II

First Regular Session (Continued)
May 21, 2003 to June 14, 2003

First Special Session
August 21, 2003 to August 22, 2003

First Confirmation Session
October 30, 2003

Second Regular Session
January 7, 2004 to January 30, 2004

Second Special Session
February 3, 2004 to March 18, 2004

Pages 715 - 1415

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

In Senate Chamber
Thursday
March 18, 2004

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

Posting of the Colors by the Franco-American Veterans and
Auxiliary of Lewiston.

Pledge of Allegiance led by Senator Margaret Rotundo of
Androscoggin County.

Prayer by Reverend Anna C. Beach, Pleasant Street United
Methodist Church in Waterville.

REVEREND BEACH: Let us pray. Holy Creator God, we come to You this day with our pray of thanksgiving for all that You have given us. We are truly blessed by the grandeur of Your creation, from the awesomeness of the mountains to the surging power of the ocean. We pray for Your blessing and guidance upon these men and women who have gathered here to discern the needs of Your people in Maine. May their deliberations be carried out in the spirit of truth and justice. Allow them the necessary parameters to openly debate and vote upon the issues before them. Give them insight that they may vote their conscience on behalf of their constituents. Do not permit the coerciveness of selfish individuals and groups to cloud their thinking. We know, oh Holy One, that You would have them do what is best for Your children.

So many of our residents face the loss of jobs as mills close and companies downsize. Poverty is a way of life for so many within our state's borders. Many parents cannot spend the time they desire with their children because they are holding down multiple jobs just to make ends meet. Others find their lives are torn by physical and emotional abuse. Protect those who are oppressed in any way and help these leaders find ways that will bring justice and wholeness to the lives of those in need.

In this world of change and uncertainty, where there are those who would look for ways to destroy the very life and freedom we enjoy, we would ask for Your guard and guidance each and every day. Let each one of us take hold of what it means to be free to assemble together, whether it be as a legislative body, religious organization, or community neighborhood. We ask Your special blessing upon Governor Baldacci and all our leaders from Augusta to every city and town in Maine; to our leaders in Washington as they seek new vision for the future. Set their hearts on fire as they serve Your people. Give them the ability to be an example to new generations who will be leaders in the years to come. Give them the humbleness that comes from being servants in the employ of Your people.

Grant them the sincerity to persistently seek solutions to the problems that beset this corner of this perplexing world, a world of change and uncertainty, a world where terror and fear strike at the heart of peace all too often. We ask all these things as we continue to pray for peace in this world. Amen.

National Anthem performed by Melanie Saucier, Fort Kent
Elementary School in Fort Kent.

Doctor of the day, Ray Nichols, M.D. of Jonesport.

Reading of the Journal of Wednesday, March 17, 2004.

Off Record Remarks

Out of order and under suspension of the Rules, on motion by
Senator **GAGNON** of Kennebec, the following Joint Order:
S.P. 772

ORDERED, the House concurring, that when the Senate adjourns Thursday, March 18, 2004 it does so until Monday, March 22, 2004, at 10:00 in the morning and when the House adjourns Friday, March 19, 2004, it does so until Monday, March 22, 2004, at 9:00 in the morning.

READ and PASSED.

Ordered sent down forthwith for concurrence.

PAPERS FROM THE HOUSE

Non-Concurrent Matter

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

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

In Senate, March 9, 2004, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (S-412).**

Comes from the House, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (S-412) AS
AMENDED BY HOUSE AMENDMENT "A" (H-763) thereto, in
NON-CONCURRENCE.**

On motion by Senator **HATCH** of Somerset, the Senate
RECEDED and CONCURRED.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.C. 507

**121ST LEGISLATURE
COMMITTEE ON JUDICIARY**

March 16, 2004

The Honorable Beverly C. Daggett
President of the Senate of Maine
121st Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 121st Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Jadine O'Brien of Portland, for appointment to the Maine Human Rights Commission.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS	Senators	3	Pendleton of Cumberland, Cathcart of Penobscot, Woodcock of Franklin
	Representatives	9	Norbert of Portland, Bennett of Caribou, Bryant- Deschenes of Turner, Bull of Freeport, Carr of Lincoln, Gerzofsky of Brunswick, Mills of Farmington, Sherman of Hodgdon, Simpson of Auburn

NAYS 0

ABSENT 1 Rep. Duprey of Hampden

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Jadine O'Brien of Portland, for appointment to the Maine Human Rights Commission be confirmed.

Signed,

S/Peggy A. Pendleton Senate Chair	S/William S. Norbert House Chair
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READ and ORDERED PLACED ON FILE.

The President Pro Tem laid before the Senate the following:
"Shall the recommendation of the Committee on **JUDICIARY** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 121st Legislature, the vote was taken by the Yeas and Nays.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#271)

YEAS: Senators: None

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

EXCUSED: Senator: DAGGETT

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being excused, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Jadine O'Brien** of Portland, for appointment to the Maine Human Rights Commission was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

THE PRESIDENT PRO TEM: The Chair is pleased to recognize in the rear of the chamber Jadine O'Brien, who I believe is related to the Secretary of the Senate. Would she please rise and accept the greetings of the Senate.

The Following Communication: S.C. 508

**121ST LEGISLATURE
COMMITTEE ON INSURANCE AND FINANCIAL SERVICES**

March 17, 2004

The Honorable Beverly C. Daggett
President of the Senate of Maine
121st Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 121st Maine Legislature, the Joint Standing Committee on Insurance and Financial Services has had under consideration the nomination of Alessandro Iuppa of Yarmouth, for reappointment as the Superintendent of Insurance.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS	Senators	2	LaFountain of York, Mayo of Sagadahoc
	Representatives	8	O'Neil of Saco, Breault of Buxton, Canavan of Waterville, Glynn of South Portland, Perry of Calais, Vaughan of Durham, Woodbury of Yarmouth, Young of Limestone
NAYS		1	Douglass of Androscoggin
ABSENT		2	Rep. Perry of Bangor, Rep. Snowe-Mello of Poland

Ten members of the Committee having voted in the affirmative and one in the negative, it was the vote of the Committee that the nomination of Alessandro Iuppa of Yarmouth, for reappointment as the Superintendent of Insurance be confirmed.

Signed,

S/Lloyd P. LaFountain III
Senate Chair

S/Christopher P. O'Neil
House Chair

READ and ORDERED PLACED ON FILE.

The President Pro Tem laid before the Senate the following:
"Shall the recommendation of the Committee on **INSURANCE AND FINANCIAL SERVICES** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 121st Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#272)

YEAS: Senators: BRENNAN, BROMLEY, CATHCART, DOUGLASS, HALL, HATCH, PENDLETON, ROTUNDO, THE PRESIDENT PRO TEM - SHARON A. TREAT

NAYS: Senators: BENNETT, BLAIS, BRYANT, CARPENTER, DAMON, DAVIS, EDMONDS, GAGNON, GILMAN, KNEELAND, LAFOUNTAIN, LEMONT, MARTIN, MAYO, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, STANLEY, STRIMLING, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

EXCUSED: Senator: DAGGETT

9 Senators having voted in the affirmative and 25 Senators having voted in the negative, with 1 Senator being excused, and 9 being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Alessandro Iuppa** of Yarmouth, for reappointment as the Superintendent of Insurance was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

Off Record Remarks

SENATE PAPERS

Bill "An Act To Appropriate Funds to the Maine Potato Board for the Purchase of Potatoes in Need of Disposal Due to Weather Conditions during the Harvest in 2003" (EMERGENCY)
S.P. 771 L.D. 1937

Sponsored by Senator MARTIN of Aroostook.
Under suspension of the rules, cosponsored by Representative WOTTON of Littleton and Senators: CATHCART of Penobscot, KNEELAND of Aroostook, STANLEY of Penobscot, Representatives: BENNETT of Caribou, CARR of Lincoln, CHURCHILL of Washburn, CLARK of Millinocket, Speaker COLWELL of Gardiner, DUNLAP of Old Town, FISCHER of Presque Isle, JACKSON of Fort Kent, JOY of Crystal, LUNDEEN of Mars Hill, PARADIS of Frenchville, RICHARDSON of Brunswick, SHERMAN of Hodgdon, SMITH of Van Buren, TARDY of Newport, THOMAS of Orono, YOUNG of Limestone. Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

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

Sent down for concurrence.

Bill "An Act To Create the Starboard Water District"
(EMERGENCY)

S.P. 770 L.D. 1935

Sponsored by Senator SHOREY of Washington.
Cosponsored by Representative BUNKER of Kossuth Township
and Senator: HALL of Lincoln, Representatives: GOODWIN of
Pembroke, PELLON of Machias.
Approved for introduction by a majority of the Legislative Council
pursuant to Joint Rule 205.

On motion by Senator **HALL** of Lincoln, **REFERRED** to the
Committee on **UTILITIES AND ENERGY** and ordered printed.

Sent down for concurrence.

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

REPORTS OF COMMITTEES

House

Ought to Pass Pursuant to Statute and Resolve

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill
"An Act To Implement the Recommendations of the Joint
Standing Committee on State and Local Government Pursuant to
the State Government Evaluation Act"

H.P. 1426 L.D. 1926

Reported that the same **Ought to Pass**, pursuant to the Maine
Revised Statutes, Title 3, chapter 35 and Resolve 2003, chapter
101, section 1.

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

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

READ ONCE.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE
DAY.**

Divided Report

The Majority of the Committee on **BUSINESS, RESEARCH AND
ECONOMIC DEVELOPMENT** on Bill "An Act To Control Adult
Entertainment Establishments"

H.P. 1323 L.D. 1801

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

Signed:

Senators:

BROMLEY of Cumberland
HALL of Lincoln
SHOREY of Washington

Representatives:

SMITH of Monmouth
AUSTIN of Gray
DUPREY of Medway
RECTOR of Thomaston
O'BRIEN of Lewiston

The Minority of the same Committee on the same subject
reported that the same **Ought To Pass as Amended by
Committee Amendment "A" (H-733)**.

Signed:

Representatives:

ROGERS of Brewer
JACOBSEN of Waterboro
PELLON of Machias
BERUBE of Lisbon
SULLIVAN of Biddeford

Comes from the House with the Minority **OUGHT TO PASS AS
AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED
TO BE ENGROSSED AS AMENDED BY COMMITTEE
AMENDMENT "A" (H-733)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-733) **READ** and **ADOPTED**, in
concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE
DAY.**

Divided Report

The Majority of the Committee on **NATURAL RESOURCES** on
Bill "An Act To Amend the Laws Governing Growth Management"
H.P. 1244 L.D. 1663

Reported that the same **Ought to Pass as Amended by
Committee Amendment "A" (H-759)**.

Signed:

Senators:

MARTIN of Aroostook
EDMONDS of Cumberland
SAWYER of Penobscot

Representatives:

KOFFMAN of Bar Harbor
HUTTON of Bowdoinham
MAKAS of Lewiston
THOMPSON of China
TOBIN of Windham
ANNIS of Dover-Foxcroft

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

Signed:

Representatives:

TWOMEY of Biddeford
SAVIELLO of Wilton
DAIGLE of Arundel
JOY of Crystal

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-759) AS AMENDED BY HOUSE AMENDMENT "A" (H-766)** thereto.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-759) **READ**.

House Amendment "A" (H-766) to Committee Amendment "A" (H-759) **READ**.

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

Senator **BENNETT:** Thank you, Madame President. I request permission to pose a question through the chair.

THE PRESIDENT PRO TEM: The Senator may pose his question.

Senator **BENNETT:** Thank you, Madame President. I was wondering if a member of the Senate could explain to me, in lay-person's terms, what House Amendment "A" (H-759) that is before us purports to do?

THE PRESIDENT PRO TEM: The Senator from Oxford, Senator Bennett poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Madame President and members of the Senate, while talking about growth management in committee, we basically set up a structure as to what thing towns had to have in order to get CDBG grants and etcetera. What this is says that they have to have a capital investment plan which would demonstrate where the money is coming from to implement the proposals that they have submitted to the state.

House Amendment "A" (H-766) to Committee Amendment "A" (H-759) **ADOPTED**.

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 pending question before the Senate is Adoption of Committee Amendment "A" (H-759) as Amended by House Amendment "A" (H-766) thereto, in concurrence. 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 (#273)

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

NAYS: Senators: None

EXCUSED: Senator: DAGGETT

34 Senators having voted in the affirmative and no Senators having voted in the negative, with 1 Senator being excused, Committee Amendment "A" (H-759) as Amended by House Amendment "A" (H-766) thereto, **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senate

Ought to Pass

Senator HALL for the Committee on **UTILITIES AND ENERGY** on Bill "An Act To Amend the Charter of the South Berwick Water District" (EMERGENCY)

S.P. 722 L.D. 1874

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Ought to Pass As Amended

Senator BROMLEY for the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Amend the Boiler and Pressure Vessel Law"
S.P. 727 L.D. 1879

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-431).**

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

READ ONCE.

Committee Amendment "A" (S-431) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator BROMLEY for the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Amend the Laws Governing the Loring Development Authority of Maine" (EMERGENCY)
S.P. 728 L.D. 1880

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-432).**

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

READ ONCE.

Committee Amendment "A" (S-432) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

SECOND READERS

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

House As Amended

Bill "An Act to Establish Instant Run-off Voting"
H.P. 171 L.D. 212
(C "A" H-751)

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

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

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

Bill "An Act To Exempt Unemployment Benefits from State Income Tax" (EMERGENCY)

H.P. 1267 L.D. 1745
(C "A" H-755)

READ A SECOND TIME.

On motion by Senator **STANLEY** of Penobscot, 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 (#274)

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

NAYS: Senators: BLAIS, GILMAN, NASS, SHOREY, TURNER, WESTON

EXCUSED: Senator: DAGGETT

28 Senators having voted in the affirmative and 6 Senators having voted in the negative, with 1 Senator being excused, the Bill was **PASSED TO BE ENGROSSED AS AMENDED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

Senate As Amended

Bill "An Act To Clarify the Law Regarding Interpreting Services for People Who Are Deaf or Hard-of-hearing"

S.P. 620 L.D. 1688
(C "A" S-430)

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

Sent down for concurrence.

Bill "An Act To Protect Maine's Coastal Water"

S.P. 378 L.D. 1158
(C "A" S-429)

READ A SECOND TIME.

On motion by Senator **MARTIN** of Aroostook, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**.

ENACTORS

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

Emergency Measure

An Act Concerning the Charter of the Dover and Foxcroft Water District

H.P. 1248 L.D. 1672
(C "A" H-734)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 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 Pro Tem, was presented by the Secretary to the Governor for his approval.

Emergency Measure

An Act To Provide for Department of Marine Resources Jurisdiction Over Certain Sections of the State's Endangered Species Program

S.P. 634 L.D. 1702
(H "A" H-741 to C "A" S-403)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 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 Pro Tem, was presented by the Secretary to the Governor for his approval.

Emergency Measure

An Act To Permit the Photocopying of Driver's Licenses in Financial Transactions

H.P. 1324 L.D. 1802
(C "A" H-683)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 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 Pro Tem, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, Regarding Legislative Review of Chapter 31: Affordable Housing Development District - Recovery of Public Revenue, a Major Substantive Rule of the Maine State Housing Authority
H.P. 1376 L.D. 1850

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

Acts

An Act To Increase the Bond Limit of the Maine Turnpike Authority

S.P. 214 L.D. 605
(C "A" S-411)

An Act To Amend the Membership of the Children's Cabinet
H.P. 1352 L.D. 1829

An Act To Amend Water Quality Laws To Aid in Wild Atlantic Salmon Restoration

H.P. 1358 L.D. 1833
(C "A" H-731)

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

An Act To Honor Maine's First Peoples

H.P. 1254 L.D. 1732
(H "A" H-744 to C "A" H-717)

On motion by Senator **HATCH** of Somerset, placed on the **SPECIAL HIGHWAY TABLE**, pending **ENACTMENT**, in concurrence.

An Act To Provide Equity in Veterans' Property Tax Exemptions
H.P. 1268 L.D. 1746
(C "A" H-725; H "A" H-742)

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

An Act To Provide for the Safe Disposal of Household Hazardous Waste

H.P. 1328 L.D. 1806
(C "A" H-732)

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#275)

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

NAYS: Senators: None

ABSENT: Senator: CATHCART

EXCUSED: Senator: DAGGETT

33 Senators having voted in the affirmative and no Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, was **PASSED TO BE ENACTED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

Resolve

Resolve, To Promote Recruitment and Retention of Direct-care Workers in Long-term Care in Maine

S.P. 362 L.D. 1090
(H "A" H-743 to C "A" S-402)

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

Senator **WESTON:** Thank you, Madame President, men and women of the Senate. I just feel compelled to bring a reminder of how important this particular resolve is. Let me read the title again. 'To Promote Recruitment and Retention of Direct-care Workers in Long-term Care in Maine.' Part of that amendment talks about priorities for achieving funding. Our job just got harder

and the job of the group that is going to be working on this just got harder when we removed the match from the tax and match on our nursing homes. Thank you.

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

Off Record Remarks

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

COMMUNICATIONS

The Following Communication: H.P. 1438

**STATE OF MAINE
OFFICE OF THE SECRETARY OF STATE
AUGUSTA, MAINE 04333**

March 4, 2004

Honorable Millicent MacFarland
Clerk of the House
2 State House Station
Augusta, ME 04333

Dear Clerk MacFarland:

Enclosed please find my official certification to the 121st Legislature of the citizen initiative petition entitled "An Act Prohibiting Certain Bear Hunting Practices."

Sincerely,

S/Dan A. Gwadosky
Secretary of State

STATE OF MAINE DEPARTMENT OF STATE

I, Dan A. Gwadosky, Secretary of State, hereby certify that written petitions bearing signatures of 97,622 electors of this State were addressed to the Legislature of the State of Maine and were filed in the office of the Secretary of State on January 28, 2004, requesting that the Legislature consider an act entitled "An Act Prohibiting Certain Bear Hunting Practices."

I further certify that the number of signatures submitted is in excess of ten percent of the total votes cast in the last gubernatorial election preceding the filing of such petitions, as required by Article IV, Part Third, Section 18 of the Constitution of Maine, that number being 50,519.

I further certify this initiative petition to be valid and attach herewith the text of the legislation circulated on the petition's behalf.

In testimony whereof, I have caused the Great Seal of the State of Maine to be hereunto affixed. Given under my hand at Augusta on the fourth day of March in the year two thousand and four.

S/Dan A. Gwadosky
Secretary of State

Comes from the House, **READ** and **ORDERED PLACED ON FILE**.

READ and with accompanying papers **ORDERED PLACED ON FILE**, in concurrence.

The Accompanying Bill:

An Act Prohibiting Certain Bear Hunting Practices
I.B. 5 L.D. 1938

Comes from the House, **REFERRED** to the Committee on **INLAND FISHERIES AND WILDLIFE** and ordered printed.

On motion by Senator **BRYANT** of Oxford, **REFERRED** to the Committee on **INLAND FISHERIES AND WILDLIFE** and ordered printed, 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 Amend the Laws Governing Blood Tests for Persons Suspected of Operating Under the Influence"
H.P. 1434 L.D. 1936

Comes from the House, **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed.

On motion by Senator **GAGNON** of Kennebec, **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed, 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 Decrease Insurance Fraud in This State"
H.P. 1435 L.D. 1939

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

On motion by Senator **LAFOUNTAIN** of York, **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES** and ordered printed, 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. 1436

RÉSOLUTION CONJOINTE HONORANT LES FRANCO-AMÉRICAINS

Considérant que, l'état du Maine est nommé après la province du Maine en France et que les villages de Calais et Paris dans l'état du Maine portent les noms de la capitale de France et du port français de Calais, respectivement; et

Considérant que, l'état du Maine célèbre cette année le 400ième anniversaire du premier village français au Nouveau Monde sur l'île Sainte-Croix en 1604; et

Considérant que, plus d'un tiers de la population du Maine est de descendance française ou canadienne; et

Considérant que, les franco-américains du Maine ont contribué beaucoup à la beauté et la qualité de cet état; et

Considérant que, le français est la première langue de milliers de citoyens du Maine; et

Considérant que, il y a eu une augmentation de l'utilisation de la langue française et une appréciation croissante de l'héritage franco-américain à travers l'état; et

Considérant que, des clubs et des associations pour promouvoir la culture et la langue française sont nés à travers l'état, y inclus le caucus francophone à la capitale; et

Considérant que, les gens qui parlent couramment le français et l'anglais sont une ressource économique et culturelle pour l'état du Maine; et

Considérant que, le tourisme culturel sera accru par les véritables centres franco-américains à travers l'état et la grande présence de franco-américains dans le Maine peut renforcer davantage nos relations avec le Canada, la France, et les autres pays francophones; et

Considérant que, le premier Jour Franco-Américain a été célébré mercredi, 6 mars, 2002, à la Capitale de l'État; maintenant, alors, qu'il soit

Résolu, que nous, les membres de la Cent-Vingt-et-Unième Législature, assemblés dans la deuxième session spéciale, au nom des gens que nous représentons, proclamons que le Jour Franco-Américain soit célébré jeudi, 18 mars, 2004, à la Capitale de l'État; et qu'il soit aussi

Résolu, que nous suggérons que le Jour Franco-Américain soit célébré chaque année au mois de mars pour commémorer la riche histoire du peuple français dans l'état du Maine et aux États-Unis d'Amérique.

**JOINT RESOLUTION RECOGNIZING
FRANCO-AMERICAN DAY**

WHEREAS, the State of Maine is named after the Province of Maine in France and the Towns of Paris and Calais owe their names to the capital city of France and the French port city of Calais, respectively; and

WHEREAS, the State of Maine is celebrating this year the 400th anniversary of the first French settlement in the New World, on Saint Croix Island in 1604; and

WHEREAS, more than 1/3 of the population of Maine is of French and Canadian descent. Franco-Americans in Maine have contributed much to the beauty and quality of this State; and

WHEREAS, French is the primary language of thousands of Mainers and there has been a resurgence in the use of the French language and a heightened appreciation of the Franco-American heritage throughout the State; and

WHEREAS, clubs and organizations to promote French culture and language have sprung up throughout the State, including the Francophone Caucus at the Capitol; and

WHEREAS, fluent French-English bilingual people are a cultural and economic resource to the State of Maine; and

WHEREAS, cultural tourism can be greatly enhanced by the genuine Franco-American centers throughout the State and the large Franco-American presence in Maine can further strengthen our relationships with Canada, France and the rest of the francophone world; and

WHEREAS, the first Franco-American Day was celebrated on Wednesday, March 6, 2002 at the State Capitol; now, therefore, be it

RESOLVED: That, We, the members of the One Hundred and Twenty-first Legislature, now assembled in the Second Special Session, on behalf of the people we represent, proclaim that Franco-American Day be celebrated Thursday, March 18, 2004 at the State Capitol; and be it further

RESOLVED: That we suggest that Franco-American Day be celebrated annually in March to commemorate the rich history of the French people in the State of Maine and the United States of America.

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

READ and **ADOPTED**, in concurrence.

Off Record Remarks

ORDERS OF THE DAY

Unfinished Business

The following matters in the consideration of which the Senate was engaged at the time of Adjournment had preference in the Orders of the Day and continued with such preference until disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later (1/13/04) Assigned matter:

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

H.P. 1348

Tabled - January 13, 2004, by Senator **TREAT** of Kennebec

Pending - **PASSAGE**, in concurrence

(In House, January 8, 2004, **READ** and **PASSED**.)

(In Senate, January 13, 2004, **READ**.)

On motion by Senator **BRYANT** of Oxford, **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (1/20/04) Assigned matter:

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

H.P. 1355

Tabled - January 20, 2004, by Senator **TREAT** of Kennebec

Pending - **PASSAGE**, in concurrence

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

(In Senate, January 20, 2004, **READ**.)

On motion by Senator **BRYANT** of Oxford, **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (3/16/04) Assigned matter:

Mandate

An Act To Revise the Minimum Firefighter Safety Standards
H.P. 1311 L.D. 1789
(C "A" H-691)

Tabled - March 16, 2004, by Senator **STRIMLING** of Cumberland

Pending - **ENACTMENT**, in concurrence

(In Senate, February 25, 2004, **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.)

(In House, March 11, 2004, **PASSED TO BE ENACTED**.)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 30 Members of the Senate, with 4 Senators having voted in the negative, and 30 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 Pro Tem, was presented by the Secretary to the Governor for his approval.

The Chair laid before the Senate the following Tabled and Later (3/17/04) Assigned matter:

HOUSE REPORT - from the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Resolve, Regarding Legislative Review of Portions of Chapter 360: Responsibilities of Manufacturers, Distributors, Dealers and Redemption Centers under the Returnable Beverage Container Law, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources (EMERGENCY)
H.P. 1354 L.D. 1831

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-758)**

Tabled - March 17, 2004, by Senator **GAGNON** of Kennebec

Pending - **ACCEPTANCE OF REPORT**, in concurrence

(In House, March 16, 2004, Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-758)**.)

(In Senate, March 17, 2004, Report **READ**.)

Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-758) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following matter Tabled Pending a Ruling of the Chair:

An Act To Reduce the Voting Age Qualification for State Primary Elections for Voters Who Will Reach 18 Years of Age by the Time of the General Election

H.P. 470 L.D. 640
(C "A" H-637)

Tabled - March 17, 2004

Pending - **RULING OF THE CHAIR** (Roll Call Ordered)

(In Senate, March 10, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-637)**, in concurrence.)

(In House, March 16, 2004, **PASSED TO BE ENACTED**.)

THE CHAIR MADE THE FOLLOWING RULING:

"The question asked, which was in written form from the Senator from Oxford, Senator Bennett, was whether this bill was properly before the body because it is a conversion of what was originally introduced as a Constitutional Amendment to a statutory instrument.

The Chair will rule that this bill is properly before the body. It has been the practice of the Maine Legislature, and other legislative bodies, to narrow a broad measure, such as a bill amending the constitution, down to a more narrow measure, such as a resolve, but not in the reverse. For example: from a private bill to a general bill. This practice is also set forth in Cushing's Elements of the Law and Practice of Legislative Assemblies, page 536, section 1368."

The Chair **RULED THE BILL PROPERLY BEFORE THE BODY.**

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

Senator **TURNER:** Thank you, Madame President. May I pose a question through the chair?

THE PRESIDENT PRO TEM: The Senator may pose his question.

Senator **TURNER:** If our constitution remains as currently written it would require that you be 18 years old to vote, how could we pass the statute that would be of a higher position than the constitution and allow 17 year olds to vote in a primary election? Can somebody enlighten me? Thank you.

THE PRESIDENT PRO TEM: The Senator from Cumberland, Senator Turner poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. I'll do my best to try to answer the good Senator's question. This bill would permit 17 year olds to vote in primary elections. They are not voting in the actual state election where the final outcome is recorded. They would be voting in a situation where they would be voting for the nominee of their party only.

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

Senator **MARTIN:** Thank you, Madame President. To respond to the question, I think the simple and short answer is that primaries are not state elections, they are party elections.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Washington, Senator Shorey.

Senator **SHOREY:** Thank you, Madame President. Yesterday I believe I requested the yeas and nays on this.

THE PRESIDENT PRO TEM: The Senator is correct. A roll call has been requested and ordered. The pending question before the Senate is Enactment. 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 (#276)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, DAMON, DAVIS, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, MARTIN, MAYO, MITCHELL, ROTUNDO, STANLEY, STRIMLING, WOODCOCK, THE PRESIDENT PRO TEM - SHARON A. TREAT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, CATHCART, GILMAN, KNEELAND, LAFOUNTAIN, LEMONT, NASS, PENDLETON, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, YOUNGBLOOD

EXCUSED: Senator: DAGGETT

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being excused, was **PASSED TO BE ENACTED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

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

Bill "An Act To Clarify Prequalification Criteria for Public Improvements"

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

Tabled - March 9, 2004, by Senator **ROTUNDO** of Androscoggin

Pending - **FURTHER CONSIDERATION**

(In Senate, February 12, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-666)**, in concurrence.)

(In House, March 4, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-666) AS AMENDED BY HOUSE AMENDMENT "A" (H-735)** thereto, in **NON-CONCURRENCE**.)

On motion by Senator **ROTUNDO** of Androscoggin, the Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-666)**.

On further motion by same Senator, the Senate **RECEDED** from whereby it **ADOPTED COMMITTEE AMENDMENT "A" (H-666)**.

House Amendment "A" (H-735) to Committee Amendment "A" (H-666) **READ**.

On motion by Senator **ROTUNDO** of Androscoggin, House Amendment "A" (H-735) to Committee Amendment "A" (H-666) **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

On further motion by same Senator, Senate Amendment "A" (S-428) to Committee Amendment "A" (H-666) **READ**.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. L.D. 1783 clarifies the prequalification criteria that must be provided to the Bureau of General Services by contractors bidding on state construction projects. The original committee amendment represented a culmination of meetings and an agreement between BGS and the construction industry. After the committee reported out L.D. 1783 unanimously Ought to Pass as Amended and the House and Senate engrossed the bill, BGS and the construction industry met again, which resulted in the floor amendment offered in the other body. This floor amendment, however, included incorrect language. Currently the parties involved, BGS and the construction industry, request that the bill be amended again to include the correct language. This is the amendment, which I now offer. Thank you.

On further motion by same Senator, Senate Amendment "A" (S-428) to Committee Amendment "A" (H-666) **ADOPTED**.

Committee Amendment "A" (H-666) as Amended by Senate Amendment "A" (S-428) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-666) AS AMENDED BY SENATE AMENDMENT "A" (S-428) thereto, in NON-CONCURRENCE

Sent down for concurrence.

The Chair laid before the Senate the following Tabled Unassigned:

Bill "An Act To Strengthen the Prohibition against Night Hunting"
H.P. 1238 L.D. 1662
(C "A" H-692)

Tabled - March 17, 2004, by Senator **BRYANT** of Oxford

Pending - **FURTHER CONSIDERATION**

(In Senate, February 25, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-692)**, in concurrence.)

(In House, March 16, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-692) AS AMENDED BY HOUSE AMENDMENT "A" (H-762)** thereto, in **NON-CONCURRENCE**.)

On motion by Senator **BRYANT** of Oxford, the Senate **RECEDED** and **CONCURRED**.

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

Senate at Ease.

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

THE PRESIDENT PRO TEM: You should have in your mailboxes a short memo from the President Pro Tem which is putting into somewhat more succinct language a three-page memo that went out a little earlier in the week relating to work being done from committee. I would like to do a reminder to all members that we are actually approaching the deadline for committees to finally report out all their bills. That deadline is 5:00 p.m. on Monday, March 22, 2004. In order to keep a bill in committee, you must have a written approval from the presiding officers. Committees may meet today, tomorrow, and Monday to meet this deadline, even if they are not regularly scheduled committee days for those committees. We have been assured by OPLA and OFPR that staff resources will be available for your committees in order to help you get your work done. Just so you know what the statistics are, there are 176 bills still in committee. They must be voted on or have an extension granted by the end of the day Monday or they will be pulled from committee. If we are to meet

our scheduled adjournment date, which is April 7th, these bills must be voted on and reported out for action by both the House and Senate. I would remind members that their last paycheck will be issued on March 31, 2004.

Off Record Remarks

RECESSED until the sound of the bell.

After Recess

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

On motion by Senator **DAVIS** of Piscataquis, **ADJOURNED**, pursuant to the Joint Order, to Monday, March 22, 2004, at 10:00 in the morning.