

MAINE STATE LEGISLATURE

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

Volume III

Second Special Session (Continued)
March 22, 2004 to April 30, 2004

Second Confirmation Session
August 25, 2004

Interim Appendix

Senate Legislative Sentiments

Index

Pages 1416 - 1812

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

In Senate Chamber
Thursday
April 15, 2004

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

Prayer by Senator Betty Lou Mitchell of Penobscot County.

SENATOR MITCHELL: Good morning. Ladies and gentlemen of the Senate, please join me in prayer.

Heavenly Father, Your word says this is the day the Lord has made, let us be glad and rejoice in it. As we continue our work of this session, we recognize our need for wisdom beyond ourselves. We need to be touched with Your compassion as we work for the people of Maine. We need to be filled with Your grace as we work together. We need Your blessing of strength to accomplish all You have set before us. Given Your help and Your blessing, we hope this day will be one of hopes fulfilled and one that gives us all a cause for thanksgiving. As we use the gifts You have given us in the opportunities set before us, guard us against the things that spoil. Grant us Your blessing according to Your promises and we will have cause to be glad and rejoice. We ask this in Jesus' name. Amen.

Reading of the Journal of Wednesday, April 14, 2004.

Off Record Remarks

ORDERS

Joint Order

Expressions of Legislative Sentiment recognizing:

Florence Dunbar, of Farmingdale, on the occasion of her retirement from the Maine State Legislature's Office of Legislative Information after 10 years of dedicated service. She began her service as the committee clerk for the Joint Standing Committee on Banking and Insurance during the 116th Legislature, and then as committee clerk of the Joint Standing Committee on Taxation during the 117th Legislature and as the committee clerk for the Joint Standing Committee on Insurance and Financial Services during the 118th through the 121st Legislatures. Her friendly smile and cheerful demeanor have been a welcome sight in Room 427, along with the candy jar that was rarely empty. She will be greatly missed by the committee members, legislators, legislative staff, Department of Professional and Financial Regulation staff and members of the lobby with whom she has

worked. We send our heartfelt appreciation to Mrs. Dunbar for her dedication and commitment to the Legislature and wish her well in her retirement;

SLS 665

Sponsored by Senator LAFOUNTAIN of York.

Under suspension of the rules, cosponsored by Senators: TREAT of Kennebec, DOUGLASS of Androscoggin, MAYO of Sagadahoc, STANLEY of Penobscot, Representatives: McCORMICK of West Gardiner, O'NEIL of Saco, CANAVAN of Waterville, PERRY of Bangor, BREault of Buxton, PERRY of Calais, GLYNN of South Portland, YOUNG of Limestone, SNOWE-MELLO of Poland, VAUGHAN of Durham, WOODBURY of Yarmouth, RICHARDSON of Brunswick, BRUNO of Raymond, DUDLEY of Portland, MARRACHÉ of Waterville, SULLIVAN of Biddeford, SMITH of Van Buren, NUTTING of Oakland.

READ.

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

Senator **LAFOUNTAIN:** Thank you, Madame President, men and women of the Senate. It's my pleasure to be one of the sponsors of this legislative sentiment for Florence Dunbar, who has served the legislature since the 116th legislature and is now retiring this month. As I indicated, she commenced her service here in the 116th, having served as a committee clerk for the Taxation Committee and also work on the Joint Standing Committee on Banking and Insurance and the Joint Standing Committee on Insurance and Financial Services. It is my pleasure to have worked with Florence over the course of the last eight years. She will be greatly missed by the committee and those who have worked with her. I wish her much happiness and success in her retirement.

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

Senator **MAYO:** Thank you, Madame President, men and women of the Senate. I, too, rise today to thank Florence for her years of service with the Insurance and Financial Affairs Committee. It has been a pleasure for all of us to have this woman as our clerk. She has arrived early and left late. I have never heard the woman complain about anything since she has been committee clerk and I have been serving on that committee for the last eight years while she has been clerk. We have been very fortunate to have her in our service. We shall miss her and we hope and trust that her replacement will be able to fill at least one of the shoes that she is leaving. Thank you, Madame President.

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

Senator **DOUGLASS:** Madame President, I, too, want to recognize Florence Dunbar for the fine work that she has done for our legislature, and really for our state, in keeping us on track and well prepared for each discussion. That includes a lot of very contentious ones, as you all know. She's always done that with a great sense of poise. She is well organized. I've been there six years and have learned that she is a violin player. It's been just a pleasure to get to know her as an individual as well as a very hard working person serving our state. We really do thank her for her

time spent here and wish her well as she goes out to have a little more fun in life.

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

Senator **STANLEY:** Thank you, Madame President. I just want to rise today because I'm saying good-bye to a good friend, Florence. She's been a good friend to me. I met Florence when I first came here. I served on the Banking and Insurance Committee. We became really good friends then. The part that I'm going to miss the most about her is that we carpool a bit back and forth to Lincoln. She, or her daughter, has a camp over in Lincoln. She and her husband go up there. We used to carpool up there back and forth. I'd give her a ride up so she could meet her husband. I tell you, we had a lot of nice conversations along the way. Florence, I'm going to miss you. Say 'Hi' to your husband for me.

PASSED.

Sent down for concurrence.

THE PRESIDENT PRO TEM: Will Florence Dunbar please rise to accept the greetings and congratulations of the Senate on the occasion of her retirement.

President Pro Tem **TREAT** requested the Sergeant-At-Arms escort the Senator from Cumberland, Senator **PENDLETON** to the rostrum where she assumed the duties as President Pro Tem.

President Pro Tem **TREAT** took a seat on the floor.

The Senate called to order by President Pro Tem **PEGGY A. PENDLETON** of Cumberland County.

ORDERS

Joint Resolution

On motion by Senator **TREAT** of Kennebec (Under suspension of the rules, cosponsored by Representative McKEE of Wayne and Senators: President DAGGETT of Kennebec, DAVIS of Piscataquis, GAGNON of Kennebec, WOODCOCK of Franklin, Representatives: BOWLES of Sanford, BRUNO of Raymond, Speaker COLWELL of Gardiner, DUPLESSIE of Westbrook, RICHARDSON of Brunswick), the following Joint Resolution:
S.P. 807

JOINT RESOLUTION RECOGNIZING JACKIE CALCAGNI

WHEREAS, upon her well-deserved retirement and in appreciation of her years of service to the Legislature, we wish to recognize Jackie Calcagni, Legislative Payroll and Benefits Supervisor in the Office of the Executive Director; and

WHEREAS, Jackie began her state service by working for the Department of Agriculture; prior to her position as Legislative

Payroll and Benefits Supervisor, Jackie also worked as a Senate Page; and

WHEREAS, during her nearly 20 years of legislative service, she has served under 3 executive directors, developing a singular ability in all aspects of personnel administration functions; and

WHEREAS, her careful attention to detail, her exceptional dedication and her good humor have made her an invaluable asset to the Legislature and a valued and vital member of the nonpartisan staff; and

WHEREAS, her efficient manner in delivering important information to Legislators and staff alike has gained her their respect and appreciation; 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 Second Special Session, pause in our deliberations to recognize Jackie Calcagni for a job done so well for so long; and be it further

RESOLVED: That We formally express our great affection and sincere thanks to Jackie Calcagni and our heartfelt best wishes to her for a happy and rewarding retirement; and be it further

RESOLVED: That a suitable copy of this resolution, duly authenticated by the Secretary of State, be prepared and transmitted to Jackie Calcagni as a lasting token of our friendship, gratitude and respect.

READ.

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

Senator **TREAT:** Thank you, Madame President, men and women of the Senate. It is a great honor and a privilege to be able to present this Joint Order for your consideration this morning. Jackie Calcagni is my constituent and it has been a pleasure for me to be her Senator here in the Maine Legislature. Jackie is someone that we all know and we are so appreciative that she has managed to get those paychecks and expense checks coming to us, even today, well after the day we said we were going to be out of this building. I was actually asked a question today about whether or not they were coming. I said, 'Absolutely, yes, Jackie is on the case and will make sure that happens.' Jackie is well known in this building, not only for being so efficient, but for having, I would say, personality plus. Jackie doesn't take any guff from anybody. If she has something to say, she says it and she says it with style. She knows what she's talking about. We had a little celebration for Jackie yesterday for her retirement. A number of stories were told about Jackie taking the time to just track down things dealing with the Executive Branch on issues, whether it related to computer or paychecks or anything else. We know how difficult it can be sometimes to do that. It's always been a pleasure dealing with Jackie. She's been there for all of us, as legislators. I think that the public doesn't realize this. When they think about the legislature, they think of the legislators. They don't realize the tremendous support that we get from all the staff that are in this building that make our lives work better as well as help to get that legislation moving

along and being processed so well. I hope you will join with me today in wishing Jackie a tremendous retirement. I have no idea how we are going to replace her. I assume she is irreplaceable in this building. She's going to have to find out what to do with the rest of her time now that she is retiring. I hope that she will find some interesting things to do. I hear that she has several things in mind, including her grandchildren. Again, join with me in wishing Jackie well and passing this order.

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

Senator **MARTIN:** Thank you very much, Madame President and members of the Senate. I just need to add my words as well to Jackie and for Jackie because, obviously, during my 20 years as a presiding officer in the other body, she was the person that I dealt with the most over all kinds of issues. The one thing that was very clear to me, I'd better make sure I turned in my expense voucher correct and to the point. Otherwise I would get them back, sometimes with a little note that was to the point even more so. I think for all of that and for the work that she's done for thousands of legislators who have been through this process in this legislature over the years, she's always done an outstanding job. The one thing I can always remember is that every now and then you have a legislator who would make some comment about an employee because they weren't happy about something. I've never had a single person come to me complaining about Jackie's comments to them, even though she was to the point. It was always clear to me that she always did things well and made sure that legislators toed the mark. I wish her well in her retirement. Frankly, I hate to see her go.

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

Senator **BENNETT:** Thank you, Madame President and fellow members of the Senate. I wish to subscribe thoroughly and unconditionally to the comments made by the two previous speakers, the Senator from Kennebec, Senator Treat, and the Senator from Aroostook, Senator Martin. I'd just like to add one additional thought of my own. When I was first elected to the legislature in 1990, fourteen years ago, like any new legislator, I experienced the many layers of discomfort that one has coming into this institution. I think any of us who have been here for more than a few months tend to forget about those first few days in the legislature and wondering how the place worked and how we fit in. I have to say, with a great deal of sincerity, that one of the most welcoming and comforting fixtures in the legislature, for me and I'm sure for countless other legislators in their first few days and weeks of service, is Jackie Calcagni. She has made the transition to legislative service very comforting and welcoming for many new legislators. For that simple, but very important, service I want to say thank you from the bottom of my heart.

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

Senator **MITCHELL:** Thank you, Madame President, ladies and gentlemen of the Senate. I also want to echo all of the praise that has been given during the last few minutes for our dear friend and co-worker, Jackie. In the eight years that I have been here, she has certainly been like the right hand. She's always there when

we want something, when we need help, or an explanation. Even though sometimes we're repetitive in our requests, she'll smile and say, 'That's okay, sit down and I'll help you.' She will be missed. I would also like to extend all of our love, best of health, and God's blessings in all of your future endeavors. Thank you.

On motion by Senator **TREAT** of Kennebec, **ADOPTED.**

Sent down for concurrence.

THE PRESIDENT PRO TEM: The Chair is very pleased to recognize in the back of the chamber Jackie Calcagni. We wish her very well on her retirement.

President Pro Tem **PENDLETON** requested the Sergeant-At-Arms escort the Senator from Kennebec, Senator **TREAT** to the rostrum where she resumed her duties as President Pro Tem.

The Sergeant-At-Arms escorted the Senator from Cumberland, Senator **PENDLETON** to her seat on the floor.

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

Off Record Remarks

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Revise the Fish and Wildlife Laws To Complement the Recodification of Those Laws"

H.P. 1421 L.D. 1920

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-858).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-858) AS AMENDED BY HOUSE AMENDMENT "A" (H-915)** thereto.

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

READ ONCE.

Committee Amendment "A" (H-858) **READ.**

On motion by Senator **GAGNON** of Kennebec, **TABLED** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (H-858), in **NON-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. 1464

**JOINT RESOLUTION MEMORIALIZING THE
CONGRESS OF THE UNITED STATES TO SUPPORT
THE FARM-TO-CAFETERIA PROJECTS ACT**

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

WHEREAS, in the past 30 years childhood obesity rates in the United States have doubled in our children and tripled in our adolescents due to poor eating habits, and obesity can contribute to increased likelihood of developing diabetes, high blood pressure, high blood cholesterol and clogging of the arteries; and

WHEREAS, school cafeterias serve millions of children breakfast, snacks and lunch every day and struggle to maintain services in light of diminished budgets at the local, state and federal levels; and

WHEREAS, in May of 2003, the Economic Research Service of the United States Department of Agriculture released an evaluation of the Fruit and Vegetable Pilot Program, which, according to the report, worked to change immediately children's fruit and vegetable consumption, improve children's health, create a healthier school environment and supply a positive model for children's diets; and

WHEREAS, agriculture sustains rural communities, protects open space, creates scenic vistas and protects water recharge areas; and

WHEREAS, the northeastern states have a traditional system of small and mid-sized producers of agricultural products located close to the towns, villages and urban centers where the majority of the 58 million consumers reside; and

WHEREAS, programs that link local farms to school cafeterias are reconnecting urban America with local agriculture in every state where they operate and providing a unique opportunity to make local agriculture relevant to the majority of the American population that now resides in urban and suburban areas; and

WHEREAS, the United States Congress is currently considering the Farm-to-Cafeteria Projects Act; and

WHEREAS, passage of the Farm-to-Cafeteria Projects Act would provide \$10,000,000 annually for grants of up to \$100,000 to school districts and nonprofit organizations to create farm-to-

cafeteria projects and overcome the initial challenges schools face in purchasing locally grown food; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge passage of the Farm-to-Cafeteria Projects Act and any other legislation that will accomplish these goals: to assist schools in purchasing locally grown food, to provide more healthy and fresh foods for schoolchildren, to educate children and their families about the foods that are grown in their own communities and to expand market opportunities for local farms, ensuring that regional agriculture continues to be viable and available to provide a safe, secure food supply to all consumers; 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, the Speaker of the United States House of Representatives, the Secretary of the United States Department of Agriculture and the Northeast States Association for Agricultural Stewardship and to each Member of the Maine Congressional Delegation.

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:

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Support the New Century Community Program"

H.P. 1309 L.D. 1787

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

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

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

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in concurrence.

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

ORDERS OF THE DAY

Unfinished Business

The following matter 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 (4/13/04) Assigned matter:

Bill "An Act To Require the Videotaping of Police Interrogations"
S.P. 286 L.D. 891
(S "B" S-490 to C "A" S-405)

Tabled - April 13, 2004, by Senator **STRIMLING** of Cumberland

Pending - **FURTHER CONSIDERATION**

(In Senate, April 5, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-405) AS AMENDED BY SENATE AMENDMENT "B" (S-490)** thereto.)

(In House, April 12, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-405) AS AMENDED BY HOUSE AMENDMENT "A" (H-880)** thereto, in **NON-CONCURRENCE**.)

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

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

Senator **MAYO:** Thank you, Madame President, ladies and gentlemen of the Senate. In the past I have not supported this particular piece of legislation. I made it a point this weekend to talk with my sheriff, Mark Westrom, who as most of you in this chamber know is involved in a case that is still ongoing after a number of years. He urged that I support this as amended legislation and I intend to today.

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

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Strimling to Recede and 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 (#372)

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

NAYS: Senators: BLAIS, DAVIS, GILMAN, HATCH, NASS, SAVAGE, WESTON, YOUNGBLOOD

ABSENT: Senators: BROMLEY, BRYANT, DAGGETT, SHOREY

23 Senators having voted in the affirmative and 8 Senators having voted in the negative, with 4 Senators being absent, the motion by Senator **STRIMLING** of Cumberland to **RECEDE** and **CONCUR**, **PREVAILED**.

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.

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Resolve, Authorizing Professional and Occupational Licensing Authorities in State Government To Defer or Waive Continuing Education Requirements for Military Personnel (EMERGENCY)
H.P. 1459 L.D. 1959

In Senate, April 13, 2004, **PASSED TO BE ENGROSSED**, without reference to a Committee.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-903)**, in **NON-CONCURRENCE**.

On motion by Senator **GAGNON** of Kennebec, the Senate **RECEDED** and **CONCURRED**.

Ordered sent forthwith to the Engrossing Division.

Off Record Remarks

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

Off Record Remarks

RECESSED until 2:30 in the afternoon.

After Recess

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

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.

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 Permit Video Gaming for Money Conducted by Nonprofit Organizations"

H.P. 996 L.D. 1354

Reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-814)**.

Signed:

Senators:

GAGNON of Kennebec
MAYO of Sagadahoc

Representatives:

CLARK of Millinocket
LANDRY of Sanford
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 Not To Pass**.

Signed:

Senator:

LEMONT of York

Representative:

GLYNN of South 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 "B" (H-814) AS AMENDED BY HOUSE AMENDMENTS "A" (H-830) AND "B" (H-922)** thereto.

Reports **READ**.

Senator **GAGNON** of Kennebec 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.

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 **TAXATION** on Bill "An Act To Provide Property Tax Relief for Maine Residents and Businesses and Implement Comprehensive Tax Reform"

H.P. 844 L.D. 1141

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

Signed:

Senators:

STANLEY of Penobscot
STRIMLING of Cumberland
NASS of York

Representatives:

LEMOINE of Old Orchard Beach
LERMAN of Augusta
COURTNEY of Sanford
CLOUGH of Scarborough
PERRY of Bangor
SIMPSON of Auburn
McCORMICK of West Gardiner
TARDY of Newport
SUSLOVIC of Portland

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-901)**.

Signed:

Representative:
McGOWAN of Pittsfield

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

Reports **READ**.

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

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

ENACTORS

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

Emergency Measure

An Act To Establish the Department of Health and Human
Services

H.P. 1414 L.D. 1913
(C "A" H-890)

On motion by Senator **GAGNON** of Kennebec, **TABLED** until
Later in Today's Session, pending **ENACTMENT**, in concurrence.

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

COMMUNICATIONS

The Following Communication: S.C. 598

**JOINT SELECT COMMITTEE
ON REGIONALIZATION AND COMMUNITY COOPERATION**

April 15, 2004

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

Dear President Daggett and Speaker Colwell:

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

L.D. 1210 Resolve, To Establish the Intergovernmental
Advisory Commission

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

Sincerely,

S/Sen. Dennis Damon
Senate Chair

S/Rep. Janet L. McLaughlin
House Chair

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

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

COMMUNICATIONS

The Following Communication: S.C. 599

**121ST LEGISLATURE
COMMITTEE ON
APPROPRIATIONS AND FINANCIAL AFFAIRS**

April 15, 2004

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

Dear President Daggett and Speaker Colwell:

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

L.D. 167	An Act To Fund the Matching Requirement for Maine's Successful NASA EPSCoR Award
L.D. 1536	An Act To Authorize the State To Establish a Multijurisdictional Lottery or Lottery Games
L.D. 1673	An Act To Provide Funding for the Commission on Governmental Ethics and Election Practices

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

Sincerely,

S/Sen. Mary R. Cathcart
Senate Chair

S/Rep. Joseph C. Brannigan
House Chair

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

Off Record Remarks

ROLL CALL (#373)

RECESSED until the sound of the bell.

After Recess

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

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Permit Video Gaming for Money Conducted by Nonprofit Organizations"
H.P. 996 L.D. 1354

Majority - **Ought to Pass as Amended by Committee Amendment "B" (H-814)** (11 members)

Minority - **Ought Not To Pass** (2 members)

Tabled - April 15, 2004, by Senator **GAGNON** of Kennebec

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

(In House, April 15, 2004, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-814) AS AMENDED BY HOUSE AMENDMENTS "A" (H-830) AND "B" (H-922)** thereto.)

(In Senate, April 15, 2004, Reports **READ**.)

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

Senator **BENNETT** of Oxford moved to **INDEFINITELY POSPONE** the Bill and accompanying papers, in **NON-CONCURRENCE**.

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 Doorkeepers secured the Chamber.

The Secretary opened the vote.

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

NAYS: Senators: **BRYANT, CATHCART, DOUGLASS, GAGNON, HATCH, MAYO, STANLEY**

ABSENT: Senators: **DAGGETT, SHOREY**

26 Senators having voted in the affirmative and 7 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **BENNETT** of Oxford to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE, PREVAILED**.

Ordered sent down forthwith for concurrence.

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

Emergency Measure

An Act To Establish the Department of Health and Human Services

H.P. 1414 L.D. 1913
(C "A" H-890)

Tabled - April 15, 2004, by Senator **GAGNON** of Kennebec

Pending - **ENACTMENT**, in concurrence

(In Senate, April 13, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-890)**, in concurrence.)

(In House, April 15, 2004, **PASSED TO BE ENACTED**.)

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

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

COMMUNICATIONS

The Following Communication: S.C. 600

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

April 15, 2004

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

Dear President Daggett and Speaker Colwell:

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

L.D. 1938 An Act Prohibiting Certain Bear Hunting Practices

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

Sincerely,

S/Sen. Bruce Bryant
Senate Chair

S/Rep. Matthew Dunlap
House Chair

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

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (4/14/04) Assigned matter:

An Act To Ensure Disclosure of Prescription Drug Prices
S.P. 736 L.D. 1890
(C "A" S-496)

Tabled - April 14, 2004, by Senator **DAVIS** of Piscataquis

Pending - **ENACTMENT**, in concurrence

(In Senate, April 7, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-496).**)

(In House, April 14, 2004, **PASSED TO BE ENACTED.**)

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'm going to ask you to connect the dots with me. I'm going to try to do that myself, and if you would follow along, perhaps we can make this trip together.

Let me tell you what this bill requires. It requires that drug manufacturers doing business in this state report and certify to the Department of Human Services what the actual average wholesale price, wholesale acquisition cost, average manufacturer price, and the best price as defined by federal law

for each of their drugs. That is what it requires. Let me tell you what is already being done. All of the information I've just read is already required and received by the federal government from those companies and is already available to the State of Maine under some confidentiality requirements.

What will this bill require from the State of Maine? It's going to require a health planner position at the cost of \$69,437. This is where the bill gets to be really creative. We don't have that money. We should really stop and weigh this. How important is this? Is this a priority? Let me tell you that the Department of Human Services testified neither for nor against this. In fact, what they said was that this will cost money and may not be helpful. This bill proceeds through this process anyways. Let me ask you this, if we don't have the money, how creative can we be getting it? This is what the bill does in that manner. I'm going to quote from someone from the Attorney General's Office who spoke before our committee. They said, 'If an opportunity presents itself, we will sue a pharmaceutical company, and if we get an award, we will take that award and we will fund this planner, who will then mandate that all of these companies now send this information not only to the federal government but also to the State of Maine.' Remember this information is already available to us. We're going to ask for another stream to be directed directly to the State of Maine.

We have an Attorney General whose eagle eye is looking for someone to sue in order to fund a position in Maine for \$69,000. Once we get that information, the department says it may not be useful. That's because of confidentiality requirements. You cannot take the information about the cost of a drug from one company and use it to negotiate with another.

Why are we doing this? That's where my dots end. I don't have an answer. This information is available. This bill is unnecessary. Thank you.

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

Senator **MAYO:** Thank you, Madame President, ladies and gentlemen of the Senate. As a co-sponsor of this particular piece of legislation, I feel it necessary to speak on it. I'd like to compliment the good Senator from Waldo, Senator Weston, on her remarks, which I find quite interesting. I would correct one item that she mentioned. In the original bill, she was 100% correct. In the amended version, which is Committee Amendment "A" (S-496), it restricts application of the bill to manufacturers of prescription drugs dispensed in the state under a health program directed or administered by the state. It is not a blanket in regard to dealing with the drug companies.

I feel a little awkward listening to the fact that our Attorney General is going to immediately jump to sue some drug company so this bill can be implemented. My dealings with the current Attorney General, both in his current position and in his former position in the other body, would lead me to believe that this situation is not necessarily going to happen. We have recently, within the year, received a settlement of \$2.5 million from a drug company for acts that were found illegal. They settled for that amount. I think is the type of thing that is going to happen. I don't think somebody is going to go looking for something under the bed of a drug company and immediately file a lawsuit.

The last thing I would like to say is that, as this bill has been approaching us, the word went out that one of the drug store companies in the state was not supportive of L.D. 1890. Today

the lobbyist for that particular company indicated that this was not the case and the Rite Aide was supportive of L.D. 1890. With that, I would strongly urge acceptance of the majority Ought to Pass report. Thank you.

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

Senator **BRENNAN:** Thank you, Madame President, men and women of the Senate. I'd also like to connect the dots. I would like to connect the dots in a way to give a complete and full picture, and hopefully a much more positive picture, than the last attempt to complete the dots.

First, drug manufacturers are required under MaineCare in order to participate in MaineCare to provide the lowest price to the state. The lowest price. Unfortunately, what we have found in the last several years, is this has not been the case. The manufacturers and pharmaceutical companies have, in fact, not done that. As a result of that, the state has claimed between \$2.5 and \$3 million back from these companies through the Attorney General's Office through suits. Even though there is a federal requirement of providing information and the best price, we haven't always received that and have had to use legal means in order to get that money to the state.

What this bill does is simply say that the information that will be provided to the state will be certified and will be accurate from that company. They will put their stamp of approval and say what they give us is accurate. I don't think that is overly burdensome. I don't think that is going to be too terribly difficult for them to achieve that particular measure. In fact, it will give the state information that it does not currently receive. That information will allow us to negotiate a better, and or, best price.

Clearly, during the public hearing and during the work session, issues were raised about confidentiality and proprietary rights. We wanted to make sure that there wasn't an opportunity for people to share this information in a way that would create an unfair advantage to competitors. What we did in the bill, in the amended version, was put in a confidentiality section that mirrors federal law so that we would protect that information. While that issue was raised, the committee was very cognizant of that issue and acted very directly to address this issue.

The good Senator from Waldo, Senator Weston, is absolutely right. This bill doesn't have a fiscal note. The reason it doesn't have a fiscal note is because the committee felt strongly about this bill. We were afraid that if it went to the Appropriations Table it may not get funded because there are a number of other worthy things that are on the table. We then saw there was an opportunity to fund the position within the Department of Human Services through the proceeds or through the revenues from the settlements that we have from the suits that we have with pharmaceutical companies. What the bill simply says is the position in the Department of Human Service that will be necessary to go through all of this information and make some meaningful sense out of it will be funded out of proceeds or revenues from the settlements that the Attorney General gains in suits that we have already had up to this particular point. It in no way implies, directs, or indicates that the Attorney General is now going to go out and sue somebody in an attempt to get revenues to fund this position. That is just simply not true.

Lastly, and maybe even the most important point of all, in answer to the question of why we are doing this. The reason we are doing this is because we had the overwhelming majority of

information and testimony on this bill that indicated that it would save money for the state. This will be an opportunity for us to save money and to reduce the cost of prescription drugs. So while we might want to talk about how it is going to be funded, we might want to talk about confidentiality, we might want to talk about 'burdens it will place on pharmaceutical companies', the bottom line is that by enacting this bill and allowing it to go forward the state will save money and citizens in the State of Maine will be paying less for their prescription drugs. That is the reason, and the most compelling reason, why people should vote for enactment. Thank you.

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. Two more dots to connect. Under federal law, any manufacturer who provides false or inaccurate information to any state is going to be fined, is going to be held in contempt of the law already. This is a quote from a representative from our Attorney General's Office in our committee hearing. When asked about these law suits and when asked about settlements and awards, he said, 'If an opportunity presents itself we will proceed and sue and hopefully get an award.' With that award we're not just simply funding a position, an entire regulatory process is being put in law, on hold, until we get a settlement. I don't know if we've ever, at least in the years I've been here, passed any bill with kind of financial process. All of these companies are waiting in the wings for a settlement to be made, funding to be had, and then they are going to be required to proceed and give this information within the last quarter of that calendar year. I don't think that is how Maine intends to do business. Again, this information is available to us. If there is savings to be made, there should be a positive fiscal note and there is none. Thank you.

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

THE PRESIDENT PRO TEM: The 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 (#374)

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

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

ABSENT: Senators: DAGGETT, SHOREY

18 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 2 Senators being absent, 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 Today Assigned matter:

Bill "An Act To Revise the Fish and Wildlife Laws To Complement the Recodification of Those Laws"

H.P. 1421 L.D. 1920

Tabled - April 15, 2004, by Senator **GAGNON** of Kennebec

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-858), in NON-CONCURRENCE**

(In House, April 14, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-858) AS AMENDED BY HOUSE AMENDMENT "A" (H-915)** thereto.)

(In Senate, April 15, 2004, Report **READ** and **ACCEPTED**, in concurrence. **READ ONCE**. Committee Amendment "A" (H-858) **READ**.)

House Amendment "A" (H-915) to Committee Amendment "A" (H-858) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-858) as Amended by House Amendment "A" (H-915) thereto, **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-858) AS AMENDED BY HOUSE AMENDMENT "A" (H-915)** thereto, in concurrence.

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

Senate at Ease.

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

On motion by Senator **GAGNON** of Kennebec, **ADJOURNED**, to Friday, April 16, 2004, at 10:00 in the morning.