

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Second Legislature

State of Maine

Daily Edition

Second Regular Session
January 4, 2006 to May 24, 2006

Pages 1382 - 2139

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

In Senate Chamber
Tuesday
April 4, 2006

Senate called to order by President Beth Edmonds of Cumberland County.

Prayer by Reverend George L. Hodgkins, Jr., Centenary United Methodist Church of Skowhegan.

REVEREND HODGKINS: Let us pray. Most gracious and merciful God, as we begin this session of our Maine State Senate we begin with You. We know that we do not always have the right answers to ever situation, so we seek You and Your infinite wisdom for help. Guide and direct our deliberations of this day. You desire us to act justly, to love mercy, to walk humbly before You. In all we say and do, help us to do that which is best for our people here in Maine. As John Wesley once said, 'A universal and timeless rule for right living: do all the good you can by all the means you can, in all the ways you can, in all the places you can, at all the times you can, to all the people you can, as long as ever you can.' May we be so inspired in our conversations and actions this day to do so ourselves with Your help. We ask all this in Your name. Amen.

Doctor of the day, Erik Steele, DO of Bangor.

Reading of the Journal of Monday, April 3, 2006.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.C. 591

**STATE OF MAINE
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON AGRICULTURE, CONSERVATION AND
FORESTRY**

March 31, 2006

The Honorable Beth Edmonds
President of the Senate of Maine
122nd 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 122nd Maine Legislature, the Joint Standing Committee on Agriculture, Conservation and Forestry has had under consideration the nomination of Richard E. Stevenson, Jr. of Bath, for appointment to the Board of Pesticides Control.

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	Bryant of Oxford, Raye of Washington
	Representatives	8	Carr of Lincoln, Edgecomb of Caribou, Flood of Winthrop, Jennings of Leeds, Jodrey of Bethel, Lundeen of Mars Hill, Piotti of Unity, Sherman of Hodgdon
NAYS		0	
ABSENT		3	Sen. Nutting of Androscoggin, Rep. Marean of Hollis, Rep. Twomey of Biddeford

Ten 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 Richard E. Stevenson, Jr. of Bath, for appointment to the Board of Pesticides Control be confirmed.

Signed,

S/John M. Nutting
Senate Chair

S/John F. Piotti
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **BRENNAN** of Cumberland, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION.**

The Following Communication: S.C. 599

**STATE OF MAINE
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

April 3, 2006

The Honorable Beth Edmonds
President of the Senate of Maine
122nd 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 122nd Maine Legislature, the Joint Standing Committee on Education and Cultural Affairs has had under consideration the nomination of Dennis P. King of Freeport, for reappointment to the Maine Community College System Board of Trustees.

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	Mitchell of Kennebec, Schneider of Penobscot, Turner of Cumberland
	Representatives	7	Cain of Orono, Davis of Falmouth, Edgecomb of Caribou, Finch of Fairfield, Goldman of Cape Elizabeth, Lansley of Sabattus, Norton of Bangor
NAYS		0	
ABSENT		3	Rep. Makas of Lewiston, Rep. Merrill of Appleton, Rep. Stedman of Hartland

Ten 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 Dennis P. King of Freeport, for reappointment to the Maine Community College System, Board of Trustees be confirmed.

Signed,

S/Elizabeth H. Mitchell
Senate Chair

S/Jacqueline Norton
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **BRENNAN** of Cumberland, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION.**

The Following Communication: S.C. 600

**STATE OF MAINE
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

April 3, 2006

The Honorable Beth Edmonds
President of the Senate of Maine
122nd 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 122nd Maine Legislature, the Joint Standing Committee on Education and Cultural Affairs has had under consideration the nomination of Honorable Daniel E. Wathen of Augusta, for reappointment to the Maine Community College System Board of Trustees.

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	Mitchell of Kennebec, Schneider of Penobscot, Turner of Cumberland
	Representatives	7	Cain of Orono, Davis of Falmouth, Edgecomb of Caribou, Finch of Fairfield, Goldman of Cape Elizabeth, Lansley of Sabattus, Norton of Bangor
NAYS		0	
ABSENT		3	Rep. Makas of Lewiston, Rep. Merrill of Appleton, Rep. Stedman of Hartland

Ten 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 Honorable Daniel E. Wathen of Augusta, for reappointment to the Maine Community College System Board of Trustees be confirmed.

Signed,

S/Elizabeth H. Mitchell
Senate Chair

S/Jacqueline Norton
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **BRENNAN** of Cumberland, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION.**

The Following Communication: S.C. 592

**STATE OF MAINE
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON AGRICULTURE, CONSERVATION AND
FORESTRY**

March 30, 2006

Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

L.D. 1791 An Act To Increase the Number of Members on the Board of Pesticides Control

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

Sincerely,

S/Sen. John M. Nutting
Senate Chair

S/Rep. John F. Piotti
House Chair

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

The Following Communication: S.C. 593

**STATE OF MAINE
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY**

March 30, 2006

Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

L.D. 1879 An Act To Enhance Firefighter Safety

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

Sincerely,

S/Sen. Bill Diamond
Senate Chair

S/Rep. Patricia A. Blanchette
House Chair

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

The Following Communication: S.C. 594

**STATE OF MAINE
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES**

March 30, 2006

Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

L.D. 1980 Resolve, To Provide Influenza Immunization Agents to All Health Care Facilities in the State

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

Sincerely,

S/Sen. Arthur F. Mayo, III
Senate Chair

S/Rep. Hannah Pingree
House Chair

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

The Following Communication: S.C. 595

**STATE OF MAINE
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON INSURANCE AND FINANCIAL SERVICES**

March 30, 2006

Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

L.D. 2059 An Act To Allow an Insured To Terminate Life Insurance Coverage under a Policy Owned by Another

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

Sincerely,

S/Sen. Nancy B. Sullivan
Senate Chair

S/Rep. Anne C. Perry
House Chair

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

The Following Communication: S.C. 596

**STATE OF MAINE
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON JUDICIARY**

March 30, 2006

Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

L.D. 986 An Act To Amend the Maine Revised Uniform Limited Partnership Act

L.D. 1297 An Act To Provide Just Compensation for Established Businesses During Eminent Domain Proceedings

L.D. 1646 An Act Regarding Buildings on Leased Lots

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

Sincerely,

S/Sen. Barry J. Hobbins
Senate Chair

S/Rep. Deborah Simpson
House Chair

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

The Following Communication: S.C. 597

**STATE OF MAINE
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT**

March 30, 2006

Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

L.D. 2024 An Act To Implement Recommendations of the Study Commission Regarding Liveable Wages Concerning the State Contracting Process

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

Sincerely,

S/Sen. Elizabeth M. Schneider
Senate Chair

S/Rep. Christopher R. Barstow
House Chair

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

The Following Communication: S.C. 598

**STATE OF MAINE
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON TAXATION**

March 30, 2006

Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

L.D. 2053 An Act To Simplify and Relieve Personal Property Taxes for Small Businesses

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

Sincerely,

S/Sen. Joseph C. Perry
Senate Chair

S/Rep. Richard G. Woodbury
House Chair

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

The Following Communication: S.C. 590

**STATE OF MAINE
OFFICE OF THE ATTORNEY GENERAL
6 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0006**

March 31, 2006

The Honorable Beth Edmonds
Senate President
122nd Maine Legislature
3 State House Station
Augusta, ME 04333

The Honorable John Richardson
Speaker of the House
122nd Maine Legislature
2 State House Station
Augusta, ME 04333

Re: Petroleum Market Share Act/Annual Report to the Legislature

Dear President Edmonds and Speaker Richardson:

Enclosed, in accordance with the provisions of 10 M.R.S.A. § 1677, is the Attorney General's Annual Report to the Legislature concerning levels of concentration in Maine's retail petroleum markets. Please note that we have included within this report a study relating to gasoline prices in Washington County as well as a letter to Maine's Congressional delegation requesting an investigation into petroleum markets.

Thank you for your consideration of these materials; please do not hesitate to call if you should have any questions in this regard.

Sincerely,

S/G. Steven Rowe
Attorney General

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Amend Certain Animal Health Laws"

H.P. 1293 L.D. 1853

Reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-918).**

Signed:

Senators:
BRYANT of Oxford
RAYE of Washington

Representatives:
PIOTTI of Unity
CARR of Lincoln
JODREY of Bethel
JENNINGS of Leeds
MAREAN of Hollis
LUNDEEN of Mars Hill
SHERMAN of Hodgdon
EDGEComb of Caribou

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "C" (H-919).**

Signed:

Senator:
NUTTING of Androscoggin

Representatives:
FLOOD of Winthrop
TWOMEY of Biddeford

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-918)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-918).**

Reports **READ.**

Senator **NUTTING** of Androscoggin moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "C" (H-919)** 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 TO PASS AS AMENDED BY COMMITTEE AMENDMENT "C" (H-919)** Report, in **NON-CONCURRENCE.**

Divided Report

The Majority of the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Amend the Notice of Risk to Personal Data Act"

H.P. 1417 L.D. 2017

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-925).**

Signed:

Senators:
SULLIVAN of York
MAYO of Sagadahoc

Representatives:
PERRY of Calais
BRAUTIGAM of Falmouth
PILON of Saco
GLYNN of South Portland
RICHARDSON of Warren
MARRACHÉ of Waterville
HARLOW of Portland

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

Signed:

Senator:
MILLS of Somerset

Representatives:
McKANE of Newcastle
LINDELL of Frankfort
VAUGHAN of Durham

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-925).**

Reports **READ.**

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

Divided Report

The Majority of the Committee on **TAXATION** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Create a Property Tax Exemption for Property Owners with Limited Personal Property Assessments

H.P. 1446 L.D. 2052

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-877).**

Signed:

Senator:
COURTNEY of York

Representatives:
HANLEY of Paris
CLARK of Millinocket
McCORMICK of West Gardiner
WOODBURY of Yarmouth
CLOUGH of Scarborough
BIERMAN of Sorrento
HUTTON of Bowdoinham
SEAVEY of Kennebunkport

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

Signed:

Senators:
PERRY of Penobscot
STRIMLING of Cumberland

Representative:
WATSON of Bath

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the **RESOLUTION PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-877)**.

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**.

Senate

Ought to Pass As Amended

Senator **NUTTING** for the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Amend the Harness Racing Laws Regarding Distributions from the Fund to Supplement Harness Racing Purses" (EMERGENCY)
S.P. 786 L.D. 2042

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-553)**.

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

READ ONCE.

Committee Amendment "A" (S-553) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator **MAYO** for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Improve the MaineCare Program"
S.P. 674 L.D. 1757

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-547)**.

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

READ ONCE.

Committee Amendment "A" (S-547) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator **MAYO** for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Conform the Certificate of Need Law to Industry Standards" (EMERGENCY)
S.P. 701 L.D. 1784

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-548)**.

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

READ ONCE.

Committee Amendment "A" (S-548) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator **MAYO** for the Committee on **HEALTH AND HUMAN SERVICES** on Resolve, To Ensure Proper Accounting for Funds at the Department of Health and Human Services
S.P. 748 L.D. 1949

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-546)**.

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

READ ONCE.

Committee Amendment "A" (S-546) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator **MAYO** for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Protect the Confidentiality of Prescription Information"
S.P. 771 L.D. 1992

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-549)**.

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

READ ONCE.

Committee Amendment "A" (S-549) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Clarify the Taxable Status of Lobster Traps"
S.P. 656 L.D. 1739

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

Signed:

Senator:
STRIMLING of Cumberland

Representatives:
HANLEY of Paris
CLARK of Millinocket
McCORMICK of West Gardiner
WOODBURY of Yarmouth
BIERMAN of Sorrento
HUTTON of Bowdoinham
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-552).**

Signed:

Senators:
PERRY of Penobscot
COURTNEY of York

Representatives:
CLOUGH of Scarborough
SEAVEY of Kennebunkport

Reports **READ.**

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

SECOND READERS

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

House

Bill "An Act To Clarify the Uninsured Motorist Laws"
H.P. 1422 L.D. 2021

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

House As Amended

Bill "An Act To Establish the Pine Tree Recreation Zone" (EMERGENCY)

H.P. 143 L.D. 192
(C "A" H-929)

Bill "An Act To Protect Consumers from Credit Card and Debit Card Holds"

H.P. 1275 L.D. 1835
(C "A" H-930)

Resolve, Authorizing the Commissioner of Administrative and Financial Services To Sell or Lease the Interests of the State in Certain Real Property Located on State Highway 191 in East Machias; U.S. Route 1 in Thomaston; U.S. Route 2 in Skowhegan; Hospital Street in Augusta; and the Presumpscot River in Falmouth

H.P. 1304 L.D. 1864
(C "B" H-927)

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

Bill "An Act To Make Revisions to the Laws Governing Pesticide Control"

H.P. 1330 L.D. 1890
(C "C" H-862)

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

Sent down for concurrence.

Bill "An Act To Increase the Salary of the Governor"

H.P. 1349 L.D. 1908
(C "B" H-897)

The Senator from Franklin, Senator **WOODCOCK**, requested and received leave of the Senate to be excused from voting pursuant to Senate Rule 401.3.

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

Sent down for concurrence.

Senate As Amended

Bill "An Act To Clarify the Taxable Status of Parts Provided under a Service Contract"

S.P. 815 L.D. 2084
(C "A" S-551)

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:

Acts

An Act Regarding Storm Water Program Administration
H.P. 1435 L.D. 2035
(C "A" H-879)

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

An Act To Provide State Funding for the Fingerprinting of School Personnel

S.P. 662 L.D. 1745
(C "A" S-520)

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

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

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

Off Record Remarks

On motion by Senator **BRENNAN** of Cumberland, **RECESSED** until 11:20 in the morning.

After Recess

Senate called to order by the President.

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act Authorizing Participation in the State Group Health Plan for Retiring Legislators"

H.P. 1491 L.D. 2098

Comes from the House, **REFERRED** to the Committee on **LABOR** and ordered printed.

On motion by Senator **STRIMLING** of Cumberland, **REFERRED** to the Committee on **LABOR** 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. 1489

JOINT RESOLUTION IN HONOR OF MAINE'S SMALL BUSINESSES AND ENTREPRENEURS

WHEREAS, Maine has the human, natural and technical resources to ensure that every person who wants to work can achieve meaningful employment and every company will have access to the tools it needs to thrive; and

WHEREAS, small businesses are the backbone of Maine's economy and are central to our way of life; and

WHEREAS, more than 97% of all Maine businesses are small businesses and they employ 61% of all Maine workers; and

WHEREAS, nearly 3/4 of net new jobs in Maine are created by small businesses; and

WHEREAS, small business owners and entrepreneurs work long hours in pursuit of excellence and creating prosperity for themselves and their employees; and

WHEREAS, we firmly stand behind continued efforts to foster and develop a business culture that encourages and supports small business, including affordable health insurance for employees, a favorable tax climate and competitive rates for unemployment insurance and workers' compensation insurance; and

WHEREAS, we strongly endorse the role of state agencies in providing the education, training and support needed to start and run businesses; guaranteeing ready access to the information needed to assist businesses in their relationships with State Government; providing access to low-cost capital; and ensuring a clear, stable and predictable regulatory and record-keeping environment; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-second Legislature now assembled in the Second Regular Session, on behalf of the people we represent, pause in our deliberations to honor Maine's small business owners and entrepreneurs who have contributed so much to the betterment of our State and the well-being of our citizens, to pledge our continued support for efforts that will help Maine businesses grow and prosper, and to encourage our youth and all citizens of Maine to pursue opportunities in developing and expanding their own small businesses; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to Governor John E. Baldacci; the Commissioner of Economic and Community Development; the State Director of the United States Small Business Administration; and the appropriate principals of the Maine National Federation of Independent Business, the Maine Small Business Alliance, the Maine State Chamber of Commerce and the Maine Small Business Development Centers in token of the esteem in which those in the small business sector are held.

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 **HEALTH AND HUMAN SERVICES** on Resolve, Regarding Legislative Review of Portions of Chapter 33: Home Day Care Provider Rules, a Major Substantive Rule of the Department of Health and Human Services (EMERGENCY) H.P. 1459 L.D. 2064

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

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Ought to Pass As Amended

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, Directing the Department of Health and Human Services To Develop a Model for Community-based Therapeutic Living Settings for Adults with Mental Illness

H.P. 1390 L.D. 1983

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-932)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-932)**.

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

READ ONCE.

Committee Amendment "A" (H-932) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Establish Guidelines and Criteria for Audits Conducted by the Department of Health and Human Services"

H.P. 1368 L.D. 1951

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-933)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-933)**.

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

READ ONCE.

Committee Amendment "A" (H-933) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **TRANSPORTATION** on Bill "An Act To Amend the Motor Vehicle Laws"

H.P. 1306 L.D. 1866

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-849).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-849).**

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

READ ONCE.

Committee Amendment "A" (H-849) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Off Record Remarks

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:

Act

An Act To Strengthen the State Purchasing Code of Conduct Laws

S.P. 686 L.D. 1769
(C "A" S-499)

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

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

ORDERS OF THE DAY

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

NOMINATION - of Richard E. Stevenson, Jr. of Bath, for appointment to the Board of Pesticides Control

Tabled - April 4, 2006, by Senator **BRENNAN** of Cumberland

Pending - **CONSIDERATION**

(In Senate, April 4, 2006, Communication (S.C. 591) from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY, READ** and **ORDERED PLACED ON FILE.**)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 122nd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#376)

YEAS: Senators: None

NAYS: Senators: ANDREWS, BARTLETT, BRENNAN, BROMLEY, BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

No Senator having voted in the affirmative and 35 Senators having voted in the negative, 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 **Richard E. Stevenson, Jr.** of Bath, for appointment to the Board of Pesticides Control was **CONFIRMED.**

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

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

NOMINATION - of Dennis P. King of Freeport, for reappointment to the Maine Community College System Board of Trustees

Tabled - April 4, 2006, by Senator **BRENNAN** of Cumberland

Pending - **CONSIDERATION**

(In Senate, April 4, 2006, Communication (S.C. 599) from the Committee on **EDUCATION AND CULTURAL AFFAIRS, READ** and **ORDERED PLACED ON FILE.**)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **EDUCATION AND CULTURAL AFFAIRS** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 122nd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#377)

YEAS: Senators: None

NAYS: Senators: ANDREWS, BARTLETT, BRENNAN, BROMLEY, BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

No Senator having voted in the affirmative and 35 Senators having voted in the negative, 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 **Dennis P. King** of Freeport, for reappointment to the Maine Community College System Board of Trustees was **CONFIRMED**.

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

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

NOMINATION - of the Honorable Daniel E. Wathen of Augusta, for reappointment to the Maine Community College System Board of Trustees

Tabled - April 4, 2006, by Senator **BRENNAN** of Cumberland

Pending - **CONSIDERATION**

(In Senate, April 4, 2006, Communication (S.C. 600) from the Committee on **EDUCATION AND CULTURAL AFFAIRS, READ and ORDERED PLACED ON FILE.**)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **EDUCATION AND CULTURAL AFFAIRS** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 122nd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#378)

YEAS: Senators: None

NAYS: Senators: ANDREWS, BARTLETT, BRENNAN, BROMLEY, BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

No Senator having voted in the affirmative and 35 Senators having voted in the negative, 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 the Honorable **Daniel E. Wathen** of Augusta, for reappointment to the Maine Community College System Board of Trustees was **CONFIRMED**.

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

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

HOUSE REPORTS - from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Amend Certain Animal Health Laws"

H.P. 1293 L.D. 1853

Majority - **Ought to Pass as Amended by Committee Amendment "B" (H-918)** (10 members)

Minority - **Ought To Pass as Amended by Committee Amendment "C" (H-919)** (3 members)

Tabled - April 4, 2006, by Senator **NUTTING** of Androscoggin

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "C" (H-919)** Report, in **NON-CONCURRENCE**

(In House, April 3, 2006, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-918)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-918).**)

(In Senate, April 4, 2006, Reports **READ.**)

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Raye.

Senator **RAYE**: Thank you, Madame President, men and women of the Senate. I rise for something that is a rarity. That is to oppose the Chairman of my committee. We generally see eye to eye. On this particular issue, the bill that was brought before the Agriculture Committee was changed by the majority of the committee with Amendment B. I believe it was a 10 to 3 report of the committee. This proposal follows on the National Animal Identification System. If any of you from heard from your constituents, you know that is extremely controversial, that there is a great deal of concern at the grass-roots level about how these standards would be applied and cost that would accrue to small family farmers. It has engendered extremely strong opposition. It was the view of the majority of the committee that the Department of Agriculture is jumping the gun a little bit. It is being done in response to the National Animal Identification System, however, the United States Congress has yet to pass a law on this issue, and the U.S.D.A. has yet to promulgate regulations on this issue. It seems that by going with the Minority Report, amended by Amendment C, as the good Senator from Androscoggin, Senator Nutting, would have us do, we are really jumping the gun.

It's very clear that farmers at the grass-roots level have not bought into this approach. If we can defeat this motion and move on, we would help shape the State's policy and give the farmers a role in that by requiring the Department of Agriculture to do out reach with farmers across the state. I believe that is necessary to ensure that it can be effective and gender the cooperation necessary to its success. The Department would then come back to us in January to report and recommend how we should proceed. I would ask that you would join with me in supporting the 10 to 3 report and oppose the current motion.

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

Senator **NUTTING**: Thank you, Madame President. I would second the statement of the good Senator from Washington, Senator Raye, that usually we do see eye to eye. In fact, on this very issue we did. This bill was a 12 to 1 Ought to Pass report. Very close to what we now have before us in the Minority Ought to Pass Report. The Department of Agriculture, over the weekend, happened to be in Ellsworth, conducting one of their many out reach meetings on this particular animal I.D. issue. In fact, I've got a listing here of over 70 out reach meetings since 2005 that the Department has had on this particular issue all over the state. I think they've done a tremendous job with out reach. At that meeting in Ellsworth, it was a very contentious meeting. In fact, that Saturday afternoon, late, two people can into that meeting and threw plates of animal feces all over the Department of Agriculture officials that were conducting the meeting. To me, that was totally uncalled for.

That Monday morning we had a reconsideration vote in the committee and what was a 12 to 1 Ought to Pass was then a 10 to 3 Ought to Pass. This minority report is supported by the Maine Farm Bureau. It is supported by the Maine Poultry Association and is supported by the Department of Agriculture. This morning I talked with State Veterinarian, Dr. Donald Hoenig, and he pointed out that since the committee vote, and I've had that distributed to you, there has been another cow tested positive to BSE in Alabama. The federal government is now making noises on two fronts and they are going to be moving very quickly because, as stated in the second part of my handout, the United

States does not have an animal I.D. system versus Canada and Europe, who has had one for over 10 years. They don't have a clue where that cow came from, where she was born, how many herds she was involved with, and BSE can be passed very quickly from animal to animal. Dr. Hoenig also pointed out to me, as in the other handout I've had distributed to you, that Maine is the closest U.S. state to migration routes for birds coming from Europe where they have Avian Influenza. The Department of Agriculture feels very strongly that we need to proceed to develop our own state plan because one message our Maine Department of Agriculture officials have heard from the federal government is that if a state develops their own animal I.D. system, they will look very favorably on that and won't then impose a federal system on us.

I think the issue that concerns me the most is the e-mails and phone calls I've received from mostly very small farmers in Maine who have said three things to me. Number one, they never want a Department of Agriculture official on their farm irrespective. Number two, if they have Avian Influenza, they want to live with it, or is they have BSE they want to live with it. Ladies and gentlemen of the Senate, you don't live with those diseases. Wind spreads them to other farms and that's why we need a national and state I.D. system. I believe we need to proceed along with it. There are a tremendous number of rumors being spread about this bill that each chicken would have to have a chip in it. A chicken chip, I guess you could say. There is absolutely no truth to that. Another rumor I heard this morning was that if you go to take your horse out a pleasure ride you'd have file a flight plan with the Department of Agriculture. That's not true either. The system they are working on developing, as they testified before us, for a large commercial farmer, like myself, I would have to tag all my animals individually, like they have done in Europe and Canada for years. The small hobby farmer, who may have a couple of horse, a couple of goats, and 50 chickens, that's a premise I.D. If you decide in the future to sell your horse to somebody in Cape Elizabeth and sell 50 chickens to somebody in New Hampshire, you would have to notify the Department of Agriculture that you'd be transporting and moving these animals. The chicken chips and the flight plans are not the case. I again want to ask your support for the pending motion. This is a very serious issue. I believe that, because of what happened in Alabama after our committee vote, this is a case where if we don't act the federal government will be acting for us. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Raye.

Senator **RAYE**: Thank you, Madame President, men and women of the Senate. I want to assure you that I'm not opposing the Senator's motion on the basis of chicken chips. I agree, it is important for the state to shape our response to this really global issue, but I believe it is very important that it be done in a way that will engender the cooperation and the buy-in of Maine's small farmers. I do not believe that an approach that goes beyond even what's required by the feds, bear in mind there has been no law passed at the federal level and no regulations promulgated by the U.S.D.A. To take a heavy handed approach will not engender the kind of cooperation that we need to make it successful.

With respect to the meetings that were held, and that the Senator referenced, in Ellsworth where that despicable act took place, and I can assure you no farmer that I've spoken with condones or accepts that vile behavior. Those meetings were not

part of the Maine Department of Agriculture's out reach because the out reach had not been done. Those meetings took place at the request of local farmers. I attended a meeting earlier that day in Columbia, Maine. There were 75 small family farmers who took several hours out of their day to be at that meeting. They were unanimous in their opposition to this bill. I think we need to listen to those people who are most effected, respect their opinions by including them in the process that will require the Department of Agriculture to conduct out reach and incorporate their views and concerns so that we have an effective policy to institute next year. I hope you will join with me in opposing the motion. Thank you.

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

Senator **BRYANT:** Thank you, Madame President, men and women of the Senate. I am in agreement with the good Senator from Washington, Senator Raye. What we have here is two different directions. One is in the minority report, which basically mandates the department to go out, on top of some objections heard from the small farmers, and implement some kind of regulation. The majority report says that we are going to implement the plan at some point in time, but we want to allow them to have the opportunity to frame some of the framework and bring it to the committee so next year, regardless of either report, we will deal with the issue. It's been my experience over the last 10 years I've been here, that if you include someone in the process and get the process working, when you come out with your results you will then have something that works for the state of Maine. If you just do what the big industrial people are ready to do and don't listen to the smaller people in this whole process, you will just have conflict next year and it will be even worse. I'd encourage you to pass the majority report and oppose the pending motion. Thank you.

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

Senator **NUTTING:** Thank you, Madame President. I'll be very brief. When I mentioned the list of supporters before, the Farm Bureau and Poultry Federation, I also forgot to mention that the Maine Beef Producers Association also supports this minority report. I'm looking at the list of out reach meetings that the Department of Agriculture has done. They began meeting with Maine Organic Farmers and Gardeners Association 14 months ago on this particular subject. Part of both reports, I'm glad to say, mandates the department continue their out reach on this subject.

Again, in summary, there has been a second animal tested positive to BSE since the committee vote. The state veterinarian feels certain that the federal government is going to be moving much faster than what we thought before. They have also pointed out that Maine is the closest state to the migration routes for birds coming from Europe. I think the department needs to continue doing three things: out reach, individual I.D., and premise I.D. The minority report will allow that to happen.

Same Senator requested a Division.

On motion by Senator **DAVIS** of Piscataquis, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Snowe-Mello.

Senator **SNOWE-MELLO:** Thank you, Madame President. May I pose a question through the Chair?

THE PRESIDENT: The Senator may pose her question.

Senator **SNOWE-MELLO:** Thank you, Madame President. I think this is an area that we really need to be very concerned about. My question is, what is the data on how quickly this bird flu spreads? Have they had any reports that verify the speediness of this? I am indeed very concerned and there are reports out there that this flu is deadly and that we have to be very careful and very progressive. Thank you.

THE PRESIDENT: The Senator from Androscoggin, Senator Snowe-Mello poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING:** Thank you, Madame President. I want to be very clear, there have not been any cases of avian influenza in the United States. It is jumping at 50 to 100 mile hops along western Europe because it is spread by the wind. The fear is, because of the migration patterns of birds, that a bird could bring it to Maine or the Northeast or New Brunswick as they migrate from Europe. This avian influenza has been very difficult for the worldwide health organizations to track its movement because it hops around so much. I hope I've answered your question. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Raye.

Senator **RAYE:** Thank you, Madame President. In further amplification of the response of the good Senator from Androscoggin, Senator Nutting, I would point out that the U.S. Department of Agriculture has not imposed the requirements that would be suggested through the motion currently before us. Obviously, this is a global problem and it is a problem, at the very least, that the Department of Agriculture and the federal government, I believe, will be leading the way and it's not necessary for Maine to jump the gun on this particular issue. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Nutting to Accept the Minority 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 (#379)

YEAS: Senators: BARTLETT, BRENNAN, BROMLEY, COWGER, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, BRYANT, CLUKEY, COURTNEY, DAMON, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK

17 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion by Senator **NUTTING** of Androscoggin to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "C" (H-919)** Report, in **NON-CONCURRENCE**, **FAILED**.

The Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-918)** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "B" (H-918) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

HOUSE REPORTS - from the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Amend the Notice of Risk to Personal Data Act"

H.P. 1417 L.D. 2017

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-925)** (9 members)

Minority - **Ought Not To Pass** (4 members)

Tabled - April 4, 2006, by Senator **SULLIVAN** of York

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, April 3, 2006, 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-925)**.)

(In Senate, April 4, 2006, Reports **READ**.)

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

READ ONCE.

Committee Amendment "A" (H-925) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

HOUSE REPORTS - from the Committee on **TAXATION** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Create a Property Tax Exemption for Property Owners with Limited Personal Property Assessments

H.P. 1446 L.D. 2052

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-877)** (9 members)

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

Tabled - April 4, 2006, by Senator **STRIMLING** of Cumberland

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

(In House, April 3, 2006, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the RESOLUTION **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-877)**.)

(In Senate, April 4, 2006, Reports **READ**.)

On motion by Senator **WESTON** of Waldo, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **PERRY:** Thank you, Madame President, ladies and gentlemen of the Senate. I'd to speak ever so briefly on this. This bill came out of the committee as an after-the-deadline request. It was in response to a bill we had heard about from the Senator from York, Senator Andrews, and a situation she had in her town with lobster traps. We found it somewhat difficult to get our hands around that problem and looked at expanding it into a flat exemption of \$20,000 of personal property tax. If you are assessed at \$20,000 or less you pay no personal property tax at all. I'm on the Ought Not to Pass report. It initially sounded like a good idea, but what I found is that it disproportionately hits service centers. We have a very diverse base of personal property as a CLIF. If you have \$20,100 you get a bill. We're shifting the burden onto the property tax payers. I initially thought the idea sounded good at the public hearing. I have since changed my mind and am on the Ought Not to Pass report. I hope you will all join me. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Courtney.

Senator **COURTNEY**: Thank you, Madame President, men and women of the Senate. I'm on the majority report, which doesn't happen that often around here. I think that this was just another attempt that some of us would like to try to address the law that states that the assessors are required to tax things like lawn mowers and other personal property items that they don't currently tax. If they follow the law, they get ridden out of town, as they did, I think, in Windham at one time. If they don't follow the law, then I guess there is no repercussion other than they are violating the law. This would give them the tool to do their job correctly. I'll leave it at that. Thank you.

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

Senator **GAGNON**: Thank you, Madame President, men and women of the Senate. From the view of taxation, I just have to remind people that when you provide an exemption for one particular class, product, or people, you are obviously shifting that burden onto others. It is, in effect, an indirect tax increase for others who may not have that same type of property. I also would like to correct the Senator in that I think there already is an exemption, I believe it's up to \$1,000, on personal property which has been set for quite some time. Also bear in mind that it's interesting that this is a Constitutional change, because if it was just a bill then we would be obligated to pay at least 50% of this tax exemption because the Constitution does require that the legislature cover 50% of any new exemptions. That is the reason, I suppose, that this passed some time ago in our Constitution. I will be supporting the pending motion of the Ought Not to Pass report. Thank you.

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

Senator **STRIMLING**: Thank you, Madame President. Just to quantify quickly what the good Senator from Kennebec, Senator Gagnon, was referring to. This would be a \$5.6 million shift onto the property tax payers throughout the state of Maine. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Sullivan.

Senator **SULLIVAN**: Thank you, Madame President. I guess I've been sleeping here. Having served with the good Senator from York, Senator Andrews, in Marine Resources. We moved this over to the Taxation Committee. I'm somewhat confused because it was my understanding that originally York was looking at taxing personal property but other places weren't. We were just trying to get a clarification that everybody would do that same thing, one way or the other. I guess I'm posing a question somehow and I don't even know what the question is yet. When I think of it, maybe somebody can answer it for me ahead of time.

THE PRESIDENT: The Senator from York, Senator Sullivan poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Penobscot, Senator Perry.

Senator **PERRY**: Thank you, Madame President, ladies and gentlemen of the Senate. I think I can answer that question. If

you look item 5-9 on your calendar, the original bill is coming up on lobster traps specifically. We looked at this as another option, as a blanket exemption that would cover lobster traps and everything else. However, with the CLIF issue, it probably doesn't even help the lobstermen because they have more than \$20,000 and it doesn't quite get there. Here we are, ready to dispense with it. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Strimling to Accept the Minority 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 (#380)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, BARTLETT, CLUKEY, COURTNEY, DAVIS, DIAMOND, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK

17 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion by Senator **STRIMLING** of Cumberland to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**, **FAILED**.

The Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-877) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

SENATE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Clarify the Taxable Status of Lobster Traps"
S.P. 656 L.D. 1739

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

Minority - **Ought To Pass as Amended by Committee Amendment "A" (S-552)** (4 members)

Tabled - April 4, 2006, by Senator **STRIMLING** of Cumberland

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, April 4, 2006, Reports **READ**.)

Senator **PERRY** of Penobscot moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report.

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

Senator **PERRY:** Thank you, Madame President. This is the original bill that the last one we heard came out of. It is simple. It clarifies that lobster traps are not subject to the personal property tax. We've got roughly three communities doing it. The rest of the coast isn't. There is some conflict there. I thought it made sense to go ahead and pass this to make that clarification. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Andrews.

Senator **ANDREWS:** Thank you, Madame President and fellow colleagues. I am the sponsor of this bill. During my eight years of serving in the legislature, I had not put in an emergency bill until this one. I'd have to say it is probably one of the two most important bills I feel that I've put in and probably one of the ones I feel the most passionate about.

Last year several lobstermen contacted me and stated that the town tax assessor had sent them a letter saying they'd be assessing a business equipment tax on each lobster trap. When I contacted the assessor, he said state law requires him to do this. Well, to my knowledge, only two or three other towns are doing this. If that is the case, why are they doing it? You need to realize that there is no reason to believe that the traps you put out today will be there tomorrow. One storm can wipe them out. You can't depreciate these items. You need to also know that being a lobsterman is not a job that the majority, in fact probably all of us in this room, could or would want to do. It's labor intensive and often very dangerous. How many of us here would enjoy being out in the open ocean in the winter during freezing temperatures? Only the hardest of Mainers can do this job.

In one of my other lives I was an emergency room supervisor. I can truthfully tell you that I dealt with more tragic accidents and deaths dealing with lobstermen and fishermen than any other profession I dealt with. Going overboard in the Maine waters any time of the year is not compatible with life. In York we have a saying, 'Only two kinds of people go in the water, darned fools and tourists and I'm not either one.'

I've researched this tax law and my tax assessor is correct. He now is also sending out letters to my self-employed carpenters, wanting to know about their hammers and this sort of thing. I would also have to say that most lobstermen and fishermen I know are not wealthy people. Every lobster person I know in York lives pretty close to the line. I have coffee with them most every morning between 5 and 6 at the local establishment. Now we want to hit them with another tax. This is on top of what they pay for a lobster license, steersman license, and they pay a tag fee on each trap every year. They pay for boat registration, boat registration for the skiff, harbor usage fee, excise tax, real estate tax on the dock which has been out of sight until recently and maybe we can give them some help with the bill that passed,

and taxes and registration on the trap trailer. They usually have to provide their own health insurance. They usually have to insure all their supplies and now we're going to add in the cost and time in reporting on this new tax. When is enough enough?

Over the past several years, things have changed with the lobster industry. We now tell them were and when they can lobster, how many lobsters they can have, how many traps they can set out, and what size the lobsters must be and on and on and on. If this is required by state law, why isn't every town doing it? Fair is fair. Either everyone is tax, or if it is a requirement, no one should be taxed. I would ask you to support this Constitutional amendment. Thank you.

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

Senator **DAMON:** Thank you, Madame President, men and women of the Chamber. In response to the good Senator's question as to who among us would like to be out hauling traps in the winter, I would. If I didn't have to get up so darned early, I'd probably still would because I used to do that, as did my father before me and his father before him and my brothers all. Now so do my nephews. I do understand the rigors of the profession and I do understand the challenges of running that business. I also, for your information, want you to know that of all three, and I'll just include three natural resources based economies of Maine, farming, fishing, and forestry. Although I understand there may be an interest to include tourism in that, two of them already have similar exemptions for equipment for professionals who work in those natural resource based economies, forestry and farming. They already do have those kinds of exemptions for the equipment that is held by those workers. I seems to me, as the good Senator mentions, to be fair, to be consistent, and to be supportive that we should be voting in favor of the existing motion. I'll be doing just that. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Sullivan.

Senator **SULLIVAN:** Thank you, Madame President, men and women of the Senate. One of the great experiences I have had in these two years is being able to be a seatmate next to the Senator from York, Senator Andrews. I would go so far as to say that we have become friends. I consider that a true blessing. She said at the very beginning that she had no idea what she was doing there, and that she had no knowledge. Her knowledge of nursing has come to the rescue for me, and many of the members, by her just being able to bring those life experiences to the committee. What she has identified, and what was happening in York, is real. You can't help when looking at the seal. You can't miss that as you serve in the Senate. We have a farmer and we have a sailor representing our connection to both our rural area and our sea. Why is it, that for some reason, we believe that the people who lobster should be tagged with extra taxes but the people who farm are not? It's a matter of fairness, I agree. I will be honored to support my good colleague. She's worked hard on this. She deserves the full credit and our lobstermen deserve the same. They truly do. I might add that the money from the lobstermen, from the fishing industry, that runs the economic engine of our community, along with that other one I think the good Senator from Hancock, Senator Damon, tourism, happen to rely on the lobster as part of that tourism. Very much so.

Perhaps it's time, it's fitting, and I publicly thank the good Senator from York, Senator Andrews. Thank you.

Senator **BRENNAN** of Cumberland requested a Division.

On motion by Senator **DAVIS** of Piscataquis, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **GAGNON:** Thank you, Madame President. I was a little confused because I was looking for the fiscal note on this bill because, as all of you know and we talked about earlier, if we enact this exemption then the state government would be required to pay 50% of it. What is really interesting about this is, as has been testified and we talked about earlier today, most tax assessors don't assess these lobster traps. They are, in fact, in violation of the law. I think there are only three communities that actually do assess them. If we pass this law, if we make this change and say they are no longer taxable, what is interesting is that, because of the Constitution, the State of Maine would be obligated to reimburse 50% of that which has been collected. My question, if I may pose a question, is does anyone know what the fiscal note is on this?

THE PRESIDENT: The Senator from Kennebec, Senator Gagnon poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from York, Senator Courtney.

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. It's my understanding that Committee Amendment A is a Constitutional Amendment and there would be no reimbursement required. Am I incorrect?

THE PRESIDENT: You are correct.

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

Senator **STRIMLING:** Thank you, Madame President. I wasn't planning on speaking on this, but now that it is a roll call, I do want to put a few words on the record. I very much appreciate my colleague from York County and what she is trying to accomplish. My opposition to this, once again, is twofold. The first part is the same argument that we continually need to make in this building which is that we continue to create exemptions in our tax code. One by one, by one. Earlier this year it was snowmobiles and now it's this. Flower seeds. We sort of get all these little pieces that come in front of us and it really is the wrong way to go about doing business. It is economically destructive and just puts us in a place where the next person comes up and says, 'Well, you gave it to them, now you need to give it to us.' That is the one side of the argument.

The other side is, however I do think that it is important that we recognize that soon you will be dealing with a bill that the people of Maine overwhelmingly, 72%, voted for. That was the working waterfront. What will come out of the Taxation Committee around that bill in some ways helps to solve some of the problems without messing with our tax code. We're setting up

a system where we can do what the people's will was and help the entire waterfront industry, not just one special interest, which is what this does. While I understand, absolutely, that we need to help this industry, this is a short-term way that creates many more long-term problems. I would urge my colleagues to vote against the motion in front of you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Andrews.

Senator **ANDREWS:** Thank you, Madame President and fellow members. I won't drag this on too long. I would like to pass on two or three tidbits. My tax assessor actually came up and spoke in favor of this bill. He would prefer not to be taxing these lobster traps. I think the amount of revenue it generates is something between \$200 and \$300. In only two or three towns, that's not a lot of money, but to people who live very close to the line every dollar counts. The other thing I forgot to mention, the day I presented the bill there happened to be a thing on TV talking about the most dangerous professions in the world. Lobstering was one of the top three. We need to protect our guys. Thank you.

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

Senator **GAGNON:** Thank you, Madame President. If I may pose a question through the Chair.

THE PRESIDENT: The Senator may pose his question.

Senator **GAGNON:** Thank you, Madame President. The question is whether or not, currently, lobster traps are eligible for the BETR reimbursement and or TIF reimbursement?

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Perry to Accept the Minority 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 (#381)

YEAS: Senators: ANDREWS, BARTLETT, BROMLEY, BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DOW, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, SAVAGE, SCHNEIDER, SNOWE-MELLO, SULLIVAN, TURNER, WESTON, WOODCOCK

NAYS: Senators: BRENNAN, DIAMOND, GAGNON, ROTUNDO, STRIMLING, THE PRESIDENT - BETH G. EDMONDS

29 Senators having voted in the affirmative and 6 Senators having voted in the negative, the motion by Senator **PERRY** of Penobscot to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-552) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator **SULLIVAN** of York was granted unanimous consent to address the Senate off the Record.

Senator **SNOWE-MELLO** of Androscoggin was granted unanimous consent to address the Senate off the Record.

Senator **COURTNEY** of York was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senator **NUTTING** of Androscoggin was granted unanimous consent to address the Senate off the Record.

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

On motion by Senator **BRENNAN** of Cumberland, **ADJOURNED**, to Wednesday, April 5, 2006, at 10:00 in the morning.