

MAINE STATE LEGISLATURE

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One Hundred and Twenty-Fifth Legislature

State of Maine

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

In Senate Chamber
Wednesday
April 6, 2011

Senate called to order by President Kevin L. Raye of Washington County.

Prayer by Pastor Steve Christner, Calvary Baptist Church in Turner.

PASTOR CHRISTNER: Let us pray. Lord we love You today. We thank You, God, for this country we live in. Thank You, Lord, for these many blessing You have given to us, for Your guidance, protection, Your watchful care. Thank You for those that sacrifice to give the liberties and freedoms that we enjoy. Thank You, God, today for those that are protecting those liberties and freedoms all around the world. Bless their families, their loved ones. The fact that we are praying today shows that we need You. I pray, God, that You bless this Senate and each one here that would be a part of making decisions. May their minds be clear. May they make decisions that are honoring to You, that are right, and that protect our freedoms. We love You. We thank You for Your grace and Your mercy. Thank You for the hope of eternal life. Thank You, Lord, for a Savior. Thank You, Lord, that You want us to pray and You will answer our prayers. In Jesus' name, Amen.

Pledge of Allegiance led by Senator A. David Trahan of Lincoln County.

Reading of the Journal of Tuesday, April 5, 2011.

Doctor of the day, Kathleen Schwarz, MD of Brunswick.

Off Record Remarks

PAPERS FROM THE HOUSE

Joint Resolution

The following Joint Resolution:

H.P. 1034

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES, THE UNITED STATES CONGRESS AND THE UNITED STATES SECRETARY OF EDUCATION TO OPPOSE THE MOVE TOWARD COMPETITIVE GRANTS IN THE DISTRIBUTION OF FEDERAL EDUCATION AID

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

WHEREAS, the administration of President Barack H. Obama has made it known that it wants to rely more on the use of competitive grants to award federal education aid to states, and it is likely to incorporate competitive grants in its proposal to reauthorize the Elementary and Secondary Education Act, known as the No Child Left Behind Act; and

WHEREAS, the shift to competitive grants as opposed to formula allocations will hurt rural states like Maine that lack the people or the capacity at the state and local levels to devote to the grant-writing process; and

WHEREAS, Maine currently receives an estimated \$200,000,000 in federal money annually, distributed largely through formula allocations, that supports programs for the State's neediest children; and

WHEREAS, changing federal aid to a competitive grant system would jeopardize that funding at a time when the State needs it most, in these serious economic times, and it would hurt the education of children who need it most; and

WHEREAS, the Maine School Boards Association and the Maine School Superintendents Association, which represent school districts across the State, have formally adopted positions opposed to this move toward competitive grants, now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and request the President and Congress of the United States and the United States Secretary of Education to continue to rely on formula allocations that recognize the obligation to educate all our children regardless of where they live and reject the move toward distributing federal education aid through competitive grants; and be it further

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

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

READ and ADOPTED, in concurrence.

COMMUNICATIONS

The Following Communication: S.C. 219

**STATE OF MAINE
125TH LEGISLATURE
OFFICE OF THE GOVERNOR**

April 1, 2011

The Honorable Kevin Raye
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Raye,

This is to inform you that I am today nominating Cathy A. DeMerchant of Vassalboro for appointment to the Inland Fisheries and Wildlife Advisory Council.

Pursuant to Title 12, MRSA §10151, this nomination will require review by the Joint Standing Committee on Inland Fisheries and Wildlife.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 220

**STATE OF MAINE
125TH LEGISLATURE
OFFICE OF THE GOVERNOR**

April 1, 2011

The Honorable Kevin Raye
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Raye,

This is to inform you that I am today nominating Lila S. Ware of Skowhegan for appointment to the Inland Fisheries and Wildlife Advisory Council.

Pursuant to Title 12, MRSA §10151, this nomination will require review by the Joint Standing Committee on Inland Fisheries and Wildlife.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 221

**STATE OF MAINE
125TH LEGISLATURE
OFFICE OF THE GOVERNOR**

April 1, 2011

The Honorable Kevin Raye
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Raye,

This is to inform you that I am today nominating Lance S. Wheaton of Forrest City Twp. for appointment to the Inland Fisheries and Wildlife Advisory Council.

Pursuant to Title 12, MRSA §10151, this nomination will require review by the Joint Standing Committee on Inland Fisheries and Wildlife.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 222

**STATE OF MAINE
125TH LEGISLATURE
OFFICE OF THE GOVERNOR**

April 1, 2011

The Honorable Kevin Raye
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Raye,

This is to inform you that I am today nominating Jeffrey C. Lewis of Ellsworth for appointment to the Inland Fisheries and Wildlife Advisory Council.

Pursuant to Title 12, MRSA §10151, this nomination will require review by the Joint Standing Committee on Inland Fisheries and Wildlife.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 223

**STATE OF MAINE
125TH LEGISLATURE
OFFICE OF THE PRESIDENT**

April 4, 2011

Honorable Joseph G. Carleton
Secretary of the Senate
3 State House Station
Augusta, ME 04333

Dear Secretary Carleton:

Pursuant to my authority under Title 1, MRSA, Chapter 13, Section 411, I am pleased to appoint County Commissioner Percy L. Brown, Jr. of Hancock to the Right to Know Advisory Committee, representing county or regional interests. With this appointment Commissioner Brown will be replacing Robert Devlin.

If you have any questions regarding this appointment please do not hesitate to contact my office.

Sincerely,

S/Kevin L. Raye
President of the Senate

READ and ORDERED PLACED ON FILE.

Senate at Ease.

Senate called to order by the President.

SENATE PAPERS

Bill "An Act Regarding the Scope of Services That May Be Provided by Pharmacies Owned by Hospitals"
S.P. 434 L.D. 1406

Presented by Senator FARNHAM of Penobscot.
Cosponsored by Representative FOSSEL of Alna and Senator JACKSON of Aroostook, Representative: WELSH of Rockport.

Bill "An Act To Establish the Maine Wild Mushroom Harvesting Certification Program"

S.P. 436 L.D. 1407

Presented by Senator LANGLEY of Hancock.

On motion by Senator **McCORMICK** of Kennebec, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed.

Sent down for concurrence.

Bill "An Act To Amend Water Quality Standards for Fish Hatcheries" (EMERGENCY)

S.P. 435 L.D. 1408

Presented by Senator TRAHAN of Lincoln.
Cosponsored by Representative CUSHING of Hampden and Representatives: BRIGGS of Mexico, CRAFTS of Lisbon, DAVIS of Sangerville, ESPLING of New Gloucester, GUERIN of Glenburn, SANDERSON of Chelsea, SARTY of Denmark, SHAW of Standish.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

On motion by Senator **MARTIN** of Kennebec, **REFERRED** to the Committee on **INLAND FISHERIES AND WILDLIFE** and ordered printed.

Sent down for concurrence.

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

REPORTS OF COMMITTEES

House

Change of Committee

The Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Improve Driver Education Licensing"

H.P. 555 L.D. 748

Reported that the same be **REFERRED** to the Committee on **TRANSPORTATION**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **TRANSPORTATION**.

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

REFERRED to the Committee on **TRANSPORTATION**, in concurrence.

Ought to Pass

The Committee on **JUDICIARY** on Bill "An Act To Update the Maine Uniform Trust Code"

H.P. 415 L.D. 532

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

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **JUDICIARY** on Resolve, Regarding Legislative Review of Chapter 3: Eligibility Requirements for Specialized Case Types, a Major Substantive Rule of the Maine Commission on Indigent Legal Services (EMERGENCY)

H.P. 451 L.D. 593

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 **JUDICIARY** on Bill "An Act Regarding Access to Sexually Explicit Material"

H.P. 44 L.D. 51

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-56)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-56)**.

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

READ ONCE.

Committee Amendment "A" (H-56) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **JUDICIARY** on Bill "An Act To Extend the Maximum Time Period for Powers of Attorney for Minors and Incapacitated Persons"

H.P. 147 L.D. 170

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-57)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-57)**.

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

READ ONCE.

Committee Amendment "A" (H-57) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **TAXATION** on Bill "An Act To Refund the Sales Tax Paid on Fuel Used in Commercial Fishing Vessels"

H.P. 162 L.D. 185

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-53)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-53)**.

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

READ ONCE.

Committee Amendment "A" (H-53) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **TRANSPORTATION** on Resolve, Directing the Department of Transportation To Place Signs Directing Motorists to Hebron Academy at the Closest Interstate Exits

H.P. 376 L.D. 483

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-60)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-60) AS AMENDED BY HOUSE AMENDMENT "A" (H-73)** thereto.

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

READ ONCE.

Committee Amendment "A" (H-60) **READ**.

House Amendment "A" (H-73) to Committee Amendment "A" (H-60) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-60) as Amended by House Amendment "A" (H-73) thereto, **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Prohibit the Issuance of a 2nd Absentee Ballot under Certain Circumstances"

H.P. 156 L.D. 179

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-58)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-58)**.

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

READ ONCE.

Committee Amendment "A" (H-58) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Ban the Use of Personal Watercraft on Allen Pond in the Town of Greene"

H.P. 483 L.D. 653

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

Signed:

Senators:
MARTIN of Kennebec
PATRICK of Oxford
TRAHAN of Lincoln

Representatives:

DAVIS of Sangerville
CLARK of Millinocket
EBERLE of South Portland
ESPLING of New Gloucester
GUERIN of Glenburn
SARTY of Denmark
SHAW of Standish
WOOD of Sabattus

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

Signed:

Representative:
CRAFTS of Lisbon

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

Reports **READ**.

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

Divided Report

The Majority of the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Extend Coverage under the State's Mini-COBRA Law"

H.P. 53 L.D. 60

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

Signed:

Senators:
WHITTEMORE of Somerset
SNOWE-MELLO of Androscoggin

Representatives:

RICHARDSON of Warren
FITZPATRICK of Houlton
McKANE of Newcastle
MORISSETTE of Winslow
PICCHIOTTI of Fairfield

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-48)**.

Signed:

Senator:
BRANNIGAN of Cumberland

Representatives:

BEAUDOIN of Biddeford
BECK of Waterville
GOODE of Bangor
MORRISON of South Portland
TREAT of Hallowell

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

Reports **READ**.

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

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

Divided Report

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act To Allow the Placement of Certain Road Signs That Advertise a Small Business"

H.P. 117 L.D. 135

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

Signed:

Senators:

COLLINS of York
DIAMOND of Cumberland

Representatives:

CEBRA of Naples
GILLWAY of Searsport
HOGAN of Old Orchard Beach
MAZUREK of Rockland
PARRY of Arundel
PEOPLES of Westbrook
RIOUX of Winterport
THERIAULT of Madawaska

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended** by **Committee Amendment "A"** (H-59).

Signed:

Senator:

THOMAS of Somerset

Representatives:

ROSEN of Bucksport
WILLETTE of Mapleton

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

Reports **READ**.

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

SECOND READERS

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

House

Bill "An Act To Repeal the Restriction on Serving or Executing Civil Process on Sunday"

H.P. 81 L.D. 95

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

Senate

Bill "An Act Regarding the Determination of Distance for the Purposes of the Gambling Control Board Laws"

S.P. 208 L.D. 677

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

Sent down for concurrence.

Senate As Amended

Resolve, To Require Dementia Care Training in Long-term Care Facilities, Adult Day Care Programs, Certain Residential Care Facilities and Supported Living Arrangements

S.P. 39 L.D. 65

(C "A" S-24)

Bill "An Act Relating to Maine Farm Wineries"

S.P. 71 L.D. 220

(C "A" S-23)

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

Sent down for concurrence.

Bill "An Act To Allow Farm Wineries To Charge for Wine Tastings"

S.P. 17 L.D. 2

(C "A" S-25)

READ A SECOND TIME.

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

Senator **PATRICK** of Oxford was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, I rise in opposition to this bill, which is "An Act to Allow Farm Wineries to Charge for Wine Tastings". I have, over the last ten years, been against these bills for a lot of reasons, but primarily because what this bill is is yet another carve out to the three-tiered system. Many of you probably haven't got a clue on what the three-tiered system is, but I will, basically, try to explain. Right now current law permits farm wineries to offer complimentary wine for tastings at winery locations. The wine may be offered during the regular business hours for the winery but only after noon on Sundays. This bill proposes to permit farm wineries to charge for these samples. Maine alcoholic beverage laws established a clear division between retailers licensed to sell alcohol to be consumed on the premises and those who sell alcohol to be consumed off the premises. Any laws that permit crossing that division are to be narrowly crafted. Tastings are an exception on the law that prohibits the consumption of alcoholic beverages on an off premise retailer. Other exceptions that go to the division are the recently enacted dual liquor license and growler. Growlers are containers, typically a one half gallon or gallon size, of beer poured from the tap at a brew pub or brewers on premises establishment. Farm wineries are eligible to also have an on premises establishment as an exception to the three-tiered system, where they could charge for wine and other beverages served. The policy question is, "What is the purpose of tastings?" Historically tastings have been represented as a means to promote the product sold by an off premises licensee. They have been, as required by law, free and open to the public. Does this purpose still hold true today or has it changed? How should this be viewed in terms of other entities that conduct tastings, which are beer and spirits? I think this is actually somewhat discriminatory because we haven't been inclusive of all three. If we're going to let it rip and allow tastings for everything we ought to allow tastings for spirits and beer and let them charge for the samples as well.

What is the three-tiered system? The three-tiered system is a system that was enacted years ago after prohibition. With the repeal of prohibition, states looking for a policy of regulating sales of alcoholic beverages enacted the three-tiered system. This policy was intended to curb the negative social impact in terms of public health and safety caused by alcohol abuse and to prevent a few large manufacturers from controlling the marketplace, limiting consumer choice and exerting too much influence. The

three tiers create a barrier between the manufacturer and the retailer. The middle tier is a distributor. The purpose of the distributive tier is to separate the manufacturer from the retailer based on the assumption that the manufacturer's interest in selling the product far outweighs concerns about the negative impacts that alcohol abuse has on the health and safety of the public. The system prohibits control, influence, ownership, and operation by one tier or any other part of another. We have numerous exemptions to the three-tiered system and sooner or later, if you continue to keep carving out the three-tiered system, it's going to be totally abolished. One of the things that I will say, if you know anything about the distributors and the manufacturers, there are thousands of jobs in the state of Maine that pay livable wages with benefits, which seems to be an oddity in this day and age. I want to protect those jobs and those benefits for those employees. Exemptions to the three-tiered system include Maine farm wineries, small breweries, and small brewery distilleries. The licensee produces less than 50,000 gallons per year, or distillers produce less than 30,000 gallons per year. They may sell directly to the winery or brewery or to retail licenses and may hold a license to sell liquor for non-premise consumption. Recently enacted provisions allow the sale of wine by mail by authorized licensees.

I'm really not against small business, although it may sound like I am. I just want to protect the system that we have in place and if we're going to allow the publicity for a person's product, which happens everywhere and most of the time it's for free, allowing them to charge for their product, I think, although it is another way of them getting a little bit more profit which I am really am not too bad against. What I'd like to see happen is to make their product and selling millions and millions of gallons from Maine farm wineries throughout the country and throughout the world. I think that is the best part of it. I'm not sure what we really gain out of this other than a few more dollars to the individual, but one of the things you will find, and probably no one cares about anymore, is the damage three-tiered system. I've always been a staunch supporter of it and I will continue to do so. I would ask you to follow my light. Thank you very much.

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

Senator **LANGLEY:** Thank you Mr. President. Men and women of the Senate, I find myself in agreement of quite a bit of what the good Senator says about the desire to keep and help our small businesses stay open. Please realize that these small farm wineries are exactly that, small businesses who are looking for an option. This is not a mandate that they charge. These folks will have to consider very heavily whether charging for a product that they had given away for free in these tastings is actually going to help their businesses. When I was out knocking door-to-door I ended up down in Winter Harbor at the Bartlett Farm Estate Winery. They said this is one thing that we could do here in this legislature that would help them keep their doors open. Simply put, as people come through as part of their tourism travels to Downeast Maine they often put the winery on that as a stop. Very often it is just that a tourist stops, has some samples, and continues on their way to Skootic Park and Arcadia National Park. This would just allow them to cover the cost of giving those samples away. It would not, indeed, completely cover the cost.

The Bartletts, in my conversation, were one of the first farm wineries to open up in the state in the 1980's. They, in fact, have

gotten to the point where they had hired employees and now, because of the downturn in the economy, are down to just Mr. and Mrs. Bartlett. You can picture in your mind that they are practically squeezing the grapes all the way through to processing and bottling and then putting it out to sale. This is, indeed, an option they will have to weigh very heavily. They won't do that lightly. This would be just another tool that they could use to keep their doors open. I would ask you to support this bill. Thank you very much.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

Senator **COURTNEY** of York moved the Bill be **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-25)**.

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, I rise a second time to reflect on some of the testimony that was given at the committee on this issue. The problem with the carve outs in the three-tiered system are such that sooner or later, like I said, we're going to have to disband the whole system and do things that are totally different and that we may not want. Some of the testimony at the committee on this bill and similar bills was on what actually the small wineries want. We gave them the opportunity to come into fruition as a small winery. We gave them the ability to have wine tastings. I asked one or two of the people, "What's next? What else do you want? Do you want to sell wine at farmer's markets? Do you want to have taste testing at farmer's markets? Do you want to charge for taste testing at farmer's markets? What is next? Are they going to ask to go to sporting events? Are they going to ask to go to churches and have wine tasting and have you pay for them at the church? At sporting events, at high school events? I'm not sure, but somewhere, somehow we've got to have a little commonsense and a little control. I would ask you to vote against this bill. Thank you, Mr. President.

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

Senator **LANGLEY:** Thank you Mr. President. Men and women of the Senate, I can answer that question. These folks would just like to survive and keep their doors open. Thank you.

At the request of Senator **COURTNEY** of York, Report **READ**.

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, I really respect the vote taken in the committee with the roll call. The majority, yes, they had the foresight to try to pass this bill. The one thing I will say as being on that committee for nine years, learning and understanding the three-tiered system and the ramifications of what happens and what is going to happen in the future, I can honestly say there is very little knowledge left on the committee on these issues. I respect each and every one's vote but would still ask you to vote Ought Not to Pass.

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

Senator **PLOWMAN:** Thank you Mr. President. Men and women of the Senate, I have served seven years on the committee and I understand the three-tiered process. I am on the other side of this bill. This is actually an arrow in the quiver of a small farm winery which they may or may not choose, as part of their business plan, to charge a small amount for product that is consumed on their property. In my estimation, it would be something that you would only very carefully consider because once you make the decision you cannot very quickly undo it. We have so few small farm wineries that it's not going to be a huge change in the system and, frankly, it's right on their own property at this point. No one has said that this is expanding to, God forbid, church. With all due respect, I think this is probably the smallest change we've ever made to the three-tiered system. The report, whether a great majority or not, I do believe there is some understanding on the committee and I would beg to say that my seven years should count somewhat. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Trahan.

Senator **TRAHAN:** Thank you Mr. President. May I pose a question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **TRAHAN:** Thank you Mr. President. To anyone who can answer this question, I've been to wine tastings and usually the way the process works is that you go through a line, you taste wines, and then, based on what you happened to have a personal taste for, you then purchase the wine. Can you explain to me why it's okay to purchase the wine, literally seconds or moments from when you just tasted it, can you explain to me what the difference is?

THE PRESIDENT: The Senator from Lincoln, Senator Trahan poses a question through the Chair to anyone who may wish to answer. The pending question before the Senate is the motion by the Senator from York, Senator Courtney to Pass to be Engrossed as Amended by Committee Amendment "A" (S-25). 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 (#26)

YEAS: Senators: COLLINS, COURTNEY, DIAMOND, FARNHAM, GOODALL, HASTINGS, HILL, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: ALFOND, BARTLETT, BLISS, BRANNIGAN, CRAVEN, GERZOFISKY, HOBBSINS, JACKSON, PATRICK, SCHNEIDER

25 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **COURTNEY** of York to **PASS TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-25), PREVAILED.**

Sent down for concurrence.

Bill "An Act To Exempt from Income Tax the Income of Nonresidents Working in Maine Pursuant to an Interlocal Agreement"

S.P. 137 L.D. 433
(C "A" S-20)

READ A SECOND TIME.

Senator **COURTNEY** of York moved the Bill be **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-20).**

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

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, not to be as long as the last debate, but I would ask for a roll call.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#27)

YEAS: Senators: ALFOND, BARTLETT, BLISS, COLLINS, COURTNEY, CRAVEN, FARNHAM, GOODALL, HASTINGS, HILL, HOBBSINS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: BRANNIGAN, DIAMOND, GERZOFISKY, JACKSON, PATRICK, SCHNEIDER, SULLIVAN

28 Senators having voted in the affirmative and 7 Senators having voted in the negative, the motion by Senator **COURTNEY** of York to **PASS TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-20), PREVAILED.**

Sent down for concurrence.

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

ENACTORS

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

Acts

An Act To Designate the Official State Treat and the Official State Dessert

H.P. 59 L.D. 71
(H "A" H-20 to C "A" H-8)

An Act To Allow a Person with One Arm To Possess Certain Kinds of Prohibited Knives

H.P. 108 L.D. 126
(C "A" H-40)

An Act To Provide Access to State Forms

H.P. 110 L.D. 128
(C "A" H-36)

An Act To Amend Indemnification Notification Laws

S.P. 85 L.D. 279

An Act To Enhance Penalties To Protect Senior Investors

S.P. 114 L.D. 401
(C "A" S-16)

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

An Act Regarding the Southern Maine Veterans Memorial Cemetery

S.P. 88 L.D. 299
(C "A" S-14)

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

Resolves

Resolve, Directing the Commission on Governmental Ethics and Election Practices To Adopt Routine Technical Rules Governing the Maine Clean Election Act and Equipment Repurchase

H.P. 184 L.D. 231
(C "A" H-39)

Resolve, To Direct the Department of Inland Fisheries and Wildlife To Prepare a Deer Winter Feeding Strategy

S.P. 80 L.D. 271
(C "A" S-15)

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

Off Record Remarks

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 (3/30/11) Assigned matter:

HOUSE REPORTS - from the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Require Oral Disclosure of the Cost of Certain Public Telephone Calls"
H.P. 41 L.D. 48

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-38)** (6 members)

Tabled - March 31, 2011, by Senator **THIBODEAU** of Waldo

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, March 29, 2011, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill and accompanying papers **COMMITTED** to the Committee on **ENERGY, UTILITIES AND TECHNOLOGY**.)

(In Senate, March 31, 2011, Reports **READ**.)

On motion by Senator **THIBODEAU** of Waldo, the Bill and accompanying papers **COMMITTED** to the Committee on **ENERGY, UTILITIES AND TECHNOLOGY**, in concurrence.

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

SENATE PAPERS

Bill "An Act To Reduce the Cost of Delivery of State and County Correctional Services"

S.P. 438 L.D. 1421

Presented by Senator **GERZOFISKY** of Cumberland.
Cosponsored by Representative **HASKELL** of Portland and Senators: **CRAVEN** of Androscoggin, **DIAMOND** of Cumberland, **HILL** of York, Representatives: **DION** of Portland, **PRIEST** of Brunswick, **WEBSTER** of Freeport.

On motion by Senator **MASON** of Androscoggin, **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed.

Sent down for concurrence.

Bill "An Act To Prepare Maine People for the Future Economy"
S.P. 439 L.D. 1422

Presented by Senator **LANGLEY** of Hancock.
Cosponsored by Senator **ALFOND** of Cumberland, Representative **CAIN** of Orono and Representatives: **RICHARDSON** of Carmel, **ROSEN** of Bucksport, **STRANG BURGESS** of Cumberland.

On motion by Senator **LANGLEY** of Hancock, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed.

Sent down for concurrence.

Bill "An Act To Modify the Laws Regarding Status as an Independent Contractor"

S.P. 437 L.D. 1420

Presented by Senator **THIBODEAU** of Waldo.
Cosponsored by Senators: **DIAMOND** of Cumberland, **HASTINGS** of Oxford, **MARTIN** of Kennebec, Representatives: **CROCKETT** of Bethel, **TIMBERLAKE** of Turner.

On motion by Senator **RECTOR** of Knox, **REFERRED** to the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed.

Sent down for concurrence.

Off Record Remarks

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

REPORTS OF COMMITTEES

Senate

Ought to Pass

Senator COLLINS for the Committee on **TRANSPORTATION** on Bill "An Act Relating to Abandoned Vehicles"
S.P. 90 L.D. 301

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Ought to Pass As Amended

Senator MASON for the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Protect Children from Sexual Predators"

S.P. 172 L.D. 580

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-26)**.

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

READ ONCE.

Committee Amendment "A" (S-26) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act To Improve the Coordination of State and County Correctional Services"

H.P. 1045 L.D. 1419

Presented by Representative PLUMMER of Windham. Cosponsored by Senator SHERMAN of Aroostook and Senator: THIBODEAU of Waldo, Representatives: BURNS of Whiting, DION of Portland, MARTIN of Eagle Lake, PICCHIOTTI of Fairfield, RIOUX of Winterport, WILLETTE of Presque Isle.

Bill "An Act To Amend the Laws Governing Disorderly Conduct"
H.P. 1046 L.D. 1423

Presented by Representative HOGAN of Old Orchard Beach. Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

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

REFERRED to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act To Enhance Parental Roles in Education Choice"
H.P. 1047 L.D. 1424

Presented by Representative VOLK of Scarborough. Cosponsored by Senator MASON of Androscoggin and Representatives: NEWENDYKE of Litchfield, O'CONNOR of Berwick, SANDERSON of Chelsea, SIROCKI of Scarborough.

Bill "An Act To Protect the Quality and Integrity of Maine's Educational Materials"
H.P. 1048 L.D. 1425

Presented by Representative EVES of North Berwick.

Come from the House, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed.

REFERRED to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Facilitate Transparency and Accountability while Reducing Electricity Costs"

H.P. 1037 L.D. 1411

Presented by Representative FOSSEL of Alna.

Comes from the House, **REFERRED** to the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** and ordered printed.

REFERRED to the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act To Promote the Proper Disposal of Used Medical Sharps"

H.P. 1038 L.D. 1412

Presented by Representative INNES of Yarmouth.
Cosponsored by Representatives: CHIPMAN of Portland, DUCHESNE of Hudson, RUSSELL of Portland, SANBORN of Gorham.

Bill "An Act To Exempt Wine Bottles from Maine's Container Redemption System"

H.P. 1043 L.D. 1417

Presented by Representative FITTS of Pittsfield.
Cosponsored by Senator: PLOWMAN of Penobscot.

Come from the House, **REFERRED** to the Committee on **ENVIRONMENT AND NATURAL RESOURCES** and ordered printed.

REFERRED to the Committee on **ENVIRONMENT AND NATURAL RESOURCES** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Update the Bankruptcy Laws To Incorporate Federal Changes Relating to Exemptions" (EMERGENCY)

H.P. 1041 L.D. 1415

Presented by Representative FREDETTE of Newport.
Cosponsored by Representatives: DAVIS of Sangerville, TURNER of Burlington.
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Committee on **INSURANCE AND FINANCIAL SERVICES** suggested and ordered printed.

Comes from the House, **REFERRED** to the Committee on **JUDICIARY**.

REFERRED to the Committee on **JUDICIARY** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Provide Options to Municipalities Concerning the Maine Uniform Building and Energy Code"

H.P. 1042 L.D. 1416

Presented by Representative McKANE of Newcastle.
Cosponsored by Representatives: HAMPER of Oxford, MALABY of Hancock, Senator THIBODEAU of Waldo and Senators: PLOWMAN of Penobscot, ROSEN of Hancock, THOMAS of Somerset, Representatives: COTTA of China, CURTIS of Madison, FITTS of Pittsfield, HARVELL of Farmington.

Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** suggested and ordered printed.

Comes from the House, **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT**.

On motion by Senator COURTNEY of York, **TABLED** until Later in Today's Session, pending **REFERENCE**.

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act Concerning the Labeling of Maine Shellfish Products"

H.P. 1035 L.D. 1409

Presented by Representative TILTON of Harrington.
Cosponsored by Senator TRAHAN of Lincoln and Senator: RECTOR of Knox, Representatives: DOW of Waldoboro, McCLELLAN of Raymond, McKANE of Newcastle, PARKER of Veazie.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

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

REFERRED to the Committee on **MARINE RESOURCES** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Amend the Maine Administrative Procedure Act"
H.P. 1036 L.D. 1410

Presented by Representative CAREY of Lewiston.
Cosponsored by Senators: COURTNEY of York, RECTOR of Knox, Representatives: DUCHESNE of Hudson, FITTS of Pittsfield, McKANE of Newcastle.

Committee on **STATE AND LOCAL GOVERNMENT** suggested and ordered printed.

Comes from the House, **REFERRED** to the Joint Select Committee on **REGULATORY FAIRNESS AND REFORM**.

REFERRED to the Joint Select Committee on **REGULATORY FAIRNESS AND REFORM** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Provide Property Tax Relief for Year-round Residents 67 Years of Age or Older"
H.P. 1040 L.D. 1414

Presented by Representative CASAVANT of Biddeford.
Cosponsored by Senator SULLIVAN of York and Representatives: BRIGGS of Mexico, GRAHAM of North Yarmouth, HINCK of Portland, JOHNSON of Greenville, O'BRIEN of Lincolnville, ROCHELO of Biddeford, TUTTLE of Sanford.

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

REFERRED to the Committee on **TAXATION** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Allow Table Games at a Facility Licensed To Operate Slot Machines on January 1, 2011"
H.P. 1044 L.D. 1418

Presented by Representative DAMON of Bangor.
Cosponsored by Senator FARNHAM of Penobscot and Representatives: FOSTER of Augusta, GOODE of Bangor, PARKER of Veazie, RICHARDSON of Warren, RIOUX of Winterport, STEVENS of Bangor, WINTLE of Garland, WOOD of Sabattus.

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

REFERRED to the Committee on **VETERANS AND LEGAL AFFAIRS** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

**Pursuant to Statute
Criminal Law Advisory Commission**

The **Criminal Law Advisory Commission**, pursuant to the Maine Revised Statutes, Title 17-A, section 1354, subsection 2 asked leave to report that the accompanying Bill "An Act To Amend the Maine Juvenile Code To Address the Issue of Competency"

H.P. 1039 L.D. 1413

Be **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed pursuant to Joint Rule 218.

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

REFERRED to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed pursuant to Joint Rule 218, in concurrence.

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

Off Record Remarks

Senator **RECTOR** of Knox was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

On motion by Senator **COURTNEY** of York, **ADJOURNED** to Thursday, April 7, 2011, at 10:00 in the morning.