

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Eighteenth Legislature
State of Maine

Volume 2

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Pages 981 - 1977

STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
SECOND REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Wednesday
March 11, 1998

Senate called to order by President Mark W. Lawrence of York County.

Prayer by Pastor David Kelly of Grace Bible Church in Sangerville.

PASTOR DAVID KELLY: Let's bow together in prayer, shall we, please. Dear God and our Father, we give You our thanks and appreciation the privilege which is ours, before this assembly, to pray together before the God of the universe, who has bought us with the blood of Christ. We would ask You to give us wisdom in decisions that are made today. We have families at home. We have jobs and business affairs to consider. But the task at hand, this day, is to be men and women of integrity who would take our stance, for we are here with convictions, thinking that we can be of service to our state. Might we make choices that are right and consistent, not only with our personal belief and decisions but also consistent with your character. Help us, Lord, to deliver choices that are consistent with your trust and the trust of the people of our state, for they are the ones who have enabled us to be here. Give us choices of character. Give us direction and understanding. Help us to listen to one another and help us, we ask, to listen to You. We give You thanks once again. With this responsibility, we commit our day and this time together into your care and to bring honor unto our God. We ask in the name of Jesus Christ. Amen.

Doctor of the Day, James Douglas, D.O., Jonesport.

Reading of the Journal of Tuesday, March 10, 1998.

Off Record Remarks

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

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.C. 591

STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON LABOR

March 9, 1998

The Honorable Mark W. Lawrence
President of the Senate of Maine
118th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 118th Maine Legislature, the Joint Standing Committee on Labor has had under consideration the nomination of Karl Dornish, Jr. of Winslow, for appointment as the Primary Employer Representative Member of the Maine Labor Relations Board.

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: 1 Cathcart of Penobscot
- Representatives: 9 Hatch of Skowhegan, Samson of Jay, Bolduc of Auburn, Clark of Millinocket, Rines of Wiscasset, Stanley of Medway, Pendleton of Scarborough, Treadwell of Carmel, Layton of Cherryfield
- NAYS: 0
- ABSENT: 3 Sen. Treat of Kennebec, Sen. Mills of Somerset, Rep. Joyce 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 Karl Dornish, Jr. of Winslow, for appointment as the Primary Employer Representative Member of the Maine Labor Relations Board be confirmed.

Signed,

S/Mary R. Cathcart
Senate Chair

S/Pamela H. Hatch
House Chair

READ and ORDERED PLACED ON FILE.

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

The Following Communication: S.C. 592

STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON LABOR

March 9, 1998

LEGISLATIVE RECORD - SENATE, MARCH 11, 1998

The Honorable Mark W. Lawrence
President of the Senate of Maine
118th Maine Legislature
State House
Augusta, Maine 04333-0003

The Honorable Mark W. Lawrence
President of the Senate of Maine
118th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 118th Maine Legislature, the Joint Standing Committee on Labor has had under consideration the nomination of Gwendolyn Gatcomb of Winthrop, for reappointment as the Primary Employee Representative Member of the Maine Labor Relations Board.

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 118th Maine Legislature, the Joint Standing Committee on Labor has had under consideration the nomination of Carol B. Gilmore of Charleston, for reappointment as an Alternate Employee Representative Member of the Maine Labor Relations Board.

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:

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 Cathcart of Penobscot, Treat of Kennebec

Representatives: 9 Hatch of Skowhegan, Samson of Jay, Bolduc of Auburn, Clark of Millinocket, Rines of Wiscasset, Stanley of Medway, Pendleton of Scarborough, Treadwell of Carmel, Layton of Cherryfield

NAYS: 0

ABSENT: 2 Sen. Mills of Somerset, Rep. Joyce of Biddeford

YEAS: Senators: 1 Cathcart of Penobscot

Representatives: 9 Hatch of Skowhegan, Samson of Jay, Bolduc of Auburn, Clark of Millinocket, Rines of Wiscasset, Stanley of Medway, Pendleton of Scarborough, Treadwell of Carmel, Layton of Cherryfield

NAYS: 0

ABSENT: 3 Sen. Treat of Kennebec, Sen. Mills of Somerset, Rep. Joyce of Biddeford

Eleven 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 Gwendolyn Gatcomb of Winthrop, for reappointment as the Primary Employee Representative Member of the Maine Labor Relations Board be confirmed.

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 Carol B. Gilmore of Charleston, for reappointment as an Alternate Employee Representative Member of the Maine Labor Relations Board be confirmed.

Signed,

Signed,

S/Mary R. Cathcart
Senate Chair

S/Pamela H. Hatch
House Chair

S/Mary R. Cathcart
Senate Chair

S/Pamela H. Hatch
House Chair

READ and ORDERED PLACED ON FILE.

READ and ORDERED PLACED ON FILE.

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

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

The Following Communication: S.C. 593

The Following Communication: S.C. 594

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON LABOR**

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON LABOR**

March 9, 1998

March 9, 1998

The Honorable Mark W. Lawrence
President of the Senate of Maine
118th Maine Legislature
State House
Augusta, Maine 04333-0003

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear Mr. President:

Dear President Lawrence and Speaker Mitchell:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 118th Maine Legislature, the Joint Standing Committee on Labor has had under consideration the nomination of Wayne Whitney of Brunswick, for reappointment as an Alternate Employee Representative Member of the Maine Labor Relations Board.

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 bills out "Ought Not to Pass":

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:

L.D. 1430 An Act to Regulate Professional Loggers

L.D. 1465 An Act to Limit Liquidation Harvesting

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

YEAS: Senators: 1 Cathcart of Penobscot

Representatives: 9 Hatch of Skowhegan, Samson of Jay, Bolduc of Auburn, Clark of Millinocket, Rines of Wiscasset, Stanley of Medway, Pendleton of Scarborough, Treadwell of Carmel, Layton of Cherryfield

Sincerely,

S/Sen. Marge L. Kilkelly
Senate Chair

S/Rep. George H. Bunker, Jr.
House Chair

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

NAYS: 0

ABSENT: 3 Sen. Treat of Kennebec, Sen. Mills of Somerset, Rep. Joyce of Biddeford

The Following Communication: S.C. 596

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON APPROPRIATIONS AND FINANCIAL
AFFAIRS**

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 Wayne Whitney of Brunswick, for reappointment as an Alternate Employee Representative Member of the Maine Labor Relations Board be confirmed.

March 9, 1998

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Signed,

S/Mary R. Cathcart
Senate Chair

S/Pamela H. Hatch
House Chair

Dear President Lawrence and Speaker Mitchell:

READ and **ORDERED PLACED ON FILE.**

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

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

The Following Communication: S.C. 595

L.D. 1958 An Act to Reimburse Kennebec County for the Costs of County Jail Construction

L.D. 2000 An Act to Appropriate Funds for Mental Retardation Day Services for Nonclass Members

L.D. 2057 An Act to Enhance Home-based Services for Maine's Elderly

L.D. 2206 An Act to Assist Municipalities with Ice Storm-related Cleanup and Reduce Unemployment

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON AGRICULTURE, CONSERVATION AND
FORESTRY**

March 9, 1998

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

Sincerely,

S/Sen. Michael H. Michaud
Senate Chair

S/Rep. George J. Kerr
House Chair

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

The Following Communication: S.C. 597

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON BANKING AND INSURANCE**

March 9, 1998

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

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

L.D. 2166 An Act to Require Health Insurance Coverage for In Vitro Fertilization Procedures

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

Sincerely,

S/Sen. Lloyd P. LaFountain III
Senate Chair

S/Rep. Jane W. Saxl
House Chair

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

The Following Communication: S.C. 598

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON CRIMINAL JUSTICE**

March 9, 1998

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

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

L.D. 804 Resolve, to Create the Juvenile Crime Task Force to Develop a Continuum of Services for Juveniles

L.D. 2084 An Act to Protect Children from Sex Offenders

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

Sincerely,

S/Sen. Robert E. Murray, Jr.
Senate Chair

S/Rep. Edward J. Povich
House Chair

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

The Following Communication: S.C. 599

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

March 9, 1998

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

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

L.D. 1983 An Act Regarding the State Subsidy for Kindergarten Programs

L.D. 2106 An Act to Provide Degree-granting Authority to the SALT Center for Documentary Field Studies

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

Sincerely,

S/Sen. Peggy A. Pendleton
Senate Chair

S/Rep. Shirley K. Richard
House Chair

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

The Following Communication: S.C. 600

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES**

March 9, 1998

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

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 bills out "Ought Not to Pass":

- L.D. 153 An Act to Provide Social Services to Children in Need of Services and State Supervision
- L.D. 1750 An Act Concerning the Rights of Children with Special Needs
- L.D. 2141 An Act to Enhance the Membership of the Maine HIV Advisory Committee

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

Sincerely,

S/Sen. Judy Paradis Senate Chair
S/Rep. J. Elizabeth Mitchell House Chair

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

The Following Communication: S.C. 601

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON INLAND FISHERIES AND WILDLIFE**

March 9, 1998

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

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

- L.D. 1479 An Act to Decriminalize Various Fish and Game Violations and Enhance Collectibility of Associated Penalties

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

Sincerely,

S/Sen. Marge L. Kilkelly Senate Chair
S/Rep. Norman R. Paul House Chair

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

The Following Communication: S.C. 602

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON JUDICIARY**

March 9, 1998

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

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. 582 An Act to Amend the Procedures for Medical Malpractice Screenings
- L.D. 1384 An Act to Reform Procedure in Multiparty Lawsuits
- L.D. 1583 An Act to Establish the Uniform Anatomical Gift Act
- L.D. 1784 An Act to Expedite the Operation of Prelitigation Screening Panels under the Maine Health Security Act
- L.D. 1978 An Act to Extend Legal Counsel in Child Protection Cases

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

Sincerely,

S/Sen. Susan W. Longley Senate Chair
S/Rep. Richard H. Thompson House Chair

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

The Following Communication: S.C. 603

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON LABOR**

March 9, 1998

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

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

L.D. 2186 An Act to Create the Maine Temporary Disability Benefits Law

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

Sincerely,

S/Sen. Mary R. Cathcart
Senate Chair

S/Rep. Pamela H. Hatch
House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: S.C. 604

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

March 9, 1998

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

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

L.D. 1799 An Act to Privatize Liquor Sales

L.D. 1828 An Act to Preserve Financial Integrity of the Bureau of Alcoholic Beverages and Lottery Operations

L.D. 1932 An Act to Promote Competition in the State's Liquor Industry

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

Sincerely,

S/Sen. Beverly C. Daggett
Senate Chair

S/Rep. John L. Tuttle, Jr.
House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: S.C. 605

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON MARINE RESOURCES**

March 9, 1998

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

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

L.D. 2026 An Act Concerning Lobster Policy Management Council Referenda

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

Sincerely,

S/Sen. Jill M. Goldthwait
Senate Chair

S/Rep. David Etnier
House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: S.C. 606

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT**

March 9, 1998

LEGISLATIVE RECORD - SENATE, MARCH 11, 1998

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

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 bills out "Ought Not to Pass":

- L.D. 1764 An Act to Establish an Office of Regulatory Reform within the Executive Branch
- L.D. 1976 An Act to Allow the York County Commissioners to Send Out Tax Bills to Towns Twice a Year

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

Sincerely,

S/Sen. John M. Nutting S/Rep. Douglas J. Ahearne
Senate Chair House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: S.C. 607

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON TAXATION**

March 9, 1998

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

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 bills out "Ought Not to Pass":

- L.D. 1927 An Act to Amend the Laws Regarding Tax Exemptions for Pollution Control Equipment
- L.D. 2009 An Act to Prohibit the Taxing of Retirees' Pensions
- L.D. 2010 An Act Regarding the State Valuation of the Town of Orono
- L.D. 2070 An Act to Allow a Tax Refund for Used Business Equipment Purchased and Used in Maine

L.D. 2158 An Act to Create a Maritime Empowerment Zone

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

Sincerely,

S/Sen. Richard P. Ruhlin S/Rep. Verdi L. Tripp
Senate Chair House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: S.C. 608

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON TRANSPORTATION**

March 9, 1998

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

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

- L.D. 1947 An Act to Improve Traffic Safety
- L.D. 2188 Resolve, to Name the Bridge on Route 236 the Jeffrey Curley Bridge

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

Sincerely,

S/Sen. William B. O'Gara S/Rep. Joseph D. Driscoll
Senate Chair House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

Off Record Remarks

The Following Communication: S.C. 609

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON UTILITIES AND ENERGY**

March 9, 1998

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

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

L.D. 2160 An Act to Encourage Customer Choice and
Competitive Rates for Natural Gas

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

Sincerely,

S/Sen. Richard J. Carey
Senate Chair

S/Rep. Kyle W. Jones
House Chair

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

ORDERS

Joint Resolution

On motion by Senator RAND of Cumberland, under unanimous consent, on behalf of President LAWRENCE of York (Cosponsored by Representatives WHEELER of Eliot and LEMONT of Kittery), the following Joint Resolution:

S.P. 858

**JOINT RESOLUTION HONORING
FORMER PORTSMOUTH MAYOR AND
NEW HAMPSHIRE STATE SENATOR EILEEN FOLEY**

WHEREAS, a mayor is the chief executive officer of a municipal corporation elected by the direct popular vote, having powers that vary from the merely advisory or legislative to the strongly executive; and

WHEREAS, Eileen Foley of Portsmouth, New Hampshire served as mayor of Kittery's sister city, Portsmouth, for a decade; and

WHEREAS, Eileen Foley, as a former senator of New Hampshire, broke through traditional barriers in that state's senate and proved that women can succeed in politics; and

WHEREAS, Eileen Foley was encouraged as a child to discover what she wanted to do in life and to pursue it; and

WHEREAS, the Members of the Senate and the Members of the House of Representatives of the State of Maine wish to join the State of New Hampshire in formally recognizing the accomplishments of the former mayor of Portsmouth, Eileen Foley, on the occasion of her retirement, and to express the high esteem and affection in which she is held; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Eighteenth Legislature of the State of Maine, now assembled in the Second Regular Session, take this opportunity to honor former Mayor Eileen Foley, to recognize her distinguished service

to the people of the State of New Hampshire over many years and to offer our congratulations and very best wishes for the future; and be it further

RESOLVED: That a suitable copy of this resolution, duly authenticated by the Secretary of State, be transmitted to Eileen Foley as a tangible token of our high esteem.

READ and ADOPTED.

Sent down for concurrence.

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

From the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Implement the Maine Arts Commission's Arts in Education Program"

H.P. 1518 L.D. 2140

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-850).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-850).**

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

READ ONCE.

Committee Amendment "A" (H-850) **READ** and **ADOPTED**, in concurrence.

TOMORROW ASSIGNED FOR SECOND READING.

From the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Enhance the Safety of Snowmobile Rental Operations"

H.P. 1447 L.D. 2038

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-852).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-852).**

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

READ ONCE.

Committee Amendment "A" (H-852) **READ** and **ADOPTED**, in concurrence.

TOMORROW ASSIGNED FOR SECOND READING.

From the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Prohibit the Opening of Liquor Stores on the Maine Turnpike" (EMERGENCY) H.P. 1303 L.D. 1846

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-830)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-830)**.

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

READ ONCE.

Committee Amendment "A" (H-830) **READ** and **ADOPTED**, in concurrence.

TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

Majority of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Establish a State Disaster Relief Trust Fund" H.P. 1097 L.D. 1540

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-846)**.

Signed:

Senator:

MICHAUD of Penobscot

Representatives:

KERR of Old Orchard Beach
POULIN of Oakland
BERRY of Livermore
TOWNSEND of Portland
KNEELAND of Easton
LEMAIRE of Lewiston
WINSOR of Norway

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

Signed:

Senators:

CLEVELAND of Androscoggin
BENNETT of Oxford

Representatives:

MARVIN of Cape Elizabeth
OTT of York

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-846)**.

Reports **READ**.

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

Senator **CLEVELAND:** Thank you Mr. President and men and women of the Senate. What this would propose to do would be to set up a separate account for disaster relief. As a matter of fact, as you look at the bill, there's actually no particular reason or need to do that, because the Governor currently has all of the authority necessary to access funds in an emergency situation including the rainy day fund, if it's necessary, to meet the needs of the state of Maine. Therefore, I'd move Ought Not to Pass because the authority already exists.

On motion by Senator **CLEVELAND** of Androscoggin, the Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

Divided Report

Majority of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Restore Funds Transferred from the Underground Oil Storage Replacement Fund" H.P. 1460 L.D. 2051

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-847)**.

Signed:

Senators:

MICHAUD of Penobscot
CLEVELAND of Androscoggin
BENNETT of Oxford

Representatives:

KERR of Old Orchard Beach
POULIN of Oakland
BERRY of Livermore
TOWNSEND of Portland
KNEELAND of Easton
LEMAIRE of Lewiston
WINSOR of Norway

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

Signed:

Representatives:

MARVIN of Cape Elizabeth
OTT of York

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-847)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-847) **READ** and **ADOPTED**, in concurrence.

TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

Majority of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Provide Funds for the Maine Apprenticeship Program" H.P. 1504 L.D. 2126

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-848)**.

Signed:

Senators:

MICHAUD of Penobscot
CLEVELAND of Androscoggin
BENNETT of Oxford

Representatives:

KERR of Old Orchard Beach
POULIN of Oakland
BERRY of Livermore
TOWNSEND of Portland
KNEELAND of Easton
LEMAIRE of Lewiston

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

Signed:

Representatives:

WINSOR of Norway
MARVIN of Cape Elizabeth
OTT of York

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-848)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-848) **READ** and **ADOPTED**, in concurrence.

TOMORROW ASSIGNED FOR SECOND READING.

SECOND READERS

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

House

Resolve, Regarding Legislative Review of Certification and Monitoring of Batterer Intervention Programs, a Major Substantive Rule of the Department of Corrections (EMERGENCY) H.P. 1560 L.D. 2189

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

House As Amended

Bill "An Act to Improve Management of Contracted Personnel Services Costs" H.P. 1394 L.D. 1948 (C "A" H-845)

Bill "An Act to Appropriate Funds for Library Resource Sharing and for Acquisitions for the Maine State Library" (EMERGENCY) H.P. 1431 L.D. 1995 (C "A" H-844)

Bill "An Act to Promote Access to Public Higher Education" H.P. 1453 L.D. 2044 (C "A" H-842)

Resolve, to Allow David Prentiss to Sue the State of Maine (EMERGENCY) H.P. 1476 L.D. 2075 (H "A" H-851 to C "A" H-841)

Bill "An Act to Clarify the Tax-exempt Status of the Maine School of Science and Mathematics" (EMERGENCY) H.P. 1488 L.D. 2087 (C "A" H-843)

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

Senate As Amended

Bill "An Act to Decriminalize Various Marine Resource Violations and Enhance Collectibility of Associated Penalties" S.P. 476 L.D. 1478 (C "A" S-493)

Bill "An Act to Simplify the Process of Transferring Ownership of a Business Licensed by the Board of Barbering and Cosmetology under the Terms of a Divorce Settlement"

S.P. 701 L.D. 1946
(C "A" S-491)

Bill "An Act to Appropriate Funds for the Interpreter Service for the Deaf and Hard of Hearing" (EMERGENCY)

S.P. 722 L.D. 1965
(C "A" S-490)

Bill "An Act to Allow the Department of Transportation to Provide Privately Contracted Ferry Services" (EMERGENCY)

S.P. 788 L.D. 2115
(C "A" S-496)

Bill "An Act to Increase Economic Security for the State's Low-income Children and Families and Prevent Additional Costs to Municipalities"

S.P. 791 L.D. 2118
(C "A" S-497)

Resolve, Naming the New Bridge in Medway the Harold C. Beathem Bridge

S.P. 809 L.D. 2187
(C "A" S-495)

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

Sent down for concurrence.

ENACTORS

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

Emergency Measure

An Act to Appropriate Funds to the Battleship USS Maine Centennial Committee to Restore and Maintain the Monument to the USS Maine in Davenport Park

H.P. 1555 L.D. 2184

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

Emergency Measure

An Act to Change the Name of the Knox Agricultural Society

H.P. 1563 L.D. 2194

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with no Senators having voted in the negative, and 27 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, Regarding Legislative Review of Chapter 890: Consumer Complaint Ratios, a Major Substantive Rule of the Department of Professional and Financial Regulation

H.P. 1577 L.D. 2210

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with no Senators having voted in the negative, and 28 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, Regarding Legislative Review of Chapter 2.10: Aquaculture Lease Regulations, Lease Categories and Environmental Baseline, a Major Substantive Rule of the Department of Marine Resources

H.P. 1608 L.D. 2235

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with no Senators having voted in the negative, and 28 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Acts

An Act Regarding the Energy Testing Laboratory of Maine

H.P. 1409 L.D. 1973
(C "A" H-824)

An Act to Amend the Charter of the Houlton Water Company

H.P. 1425 L.D. 1989
(C "A" H-826)

An Act to Clarify Mileage Reimbursement for Employees of Community Action Agencies

S.P. 730 L.D. 2008
(C "A" S-474)

An Act to Amend the Charter of the Van Buren Light and Power District

S.P. 751 L.D. 2029
(C "A" S-470)

An Act to Amend the Act to Implement the Maine Indian Claims Settlement

H.P. 1445 L.D. 2036

An Act to Amend the Laws Concerning Life and Health Insurance

H.P. 1459 L.D. 2050
(C "A" H-819)

An Act to Establish Reasonable Fees for Reports and Other Items From the Office of Chief Medical Examiner

H.P. 1490 L.D. 2089
(C "A" H-825)

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

An Act to Extend the Prevailing Wage Laws to the Maine Turnpike Authority
S.P. 708 L.D. 1956
(C "A" S-463)

On motion by Senator O'GARA of Cumberland, placed on the **SPECIAL HIGHWAY TABLE**, pending **ENACTMENT**.

An Act to Protect and Maintain Opportunities for Students by Funding Jobs for Maine Graduates
H.P. 1406 L.D. 1970

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

An Act to Amend the Law Relating to Special Education Out-of-district Placements
H.P. 1449 L.D. 2040
(C "A" H-823)

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

An Act to Continue the Membership of the Maine Legislature in the Council of State Governments
H.P. 1487 L.D. 2086

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

Resolve

Resolve, to Provide Educational Placement Options within the Public School System
S.P. 195 L.D. 623
(C "A" S-472)

On motion by Senator CLEVELAND of Androscoggin, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**.

Off Record Remarks

Senate at Ease

Senate called to order by the President.

Off Record Remarks

THE PRESIDENT: I'm pleased to interrupt proceedings to present the Legislative Memorial Scholarship Awards for this year. The Chair recognizes the Senator from Penobscot, Senator Ruhlin.

Senator **RUHLIN:** Thank you Mr. President and honorable Senators of Maine, and guests. This morning we're going to

present our Legislative Scholarship Awards to the recipients. But before we do that, I'd like to just go back and review that scholarship program with the members. It was approximately 18 years ago that the scholarship fund was started, following the untimely demise of one of our members, who was very popular. As a matter of fact, I don't even remember what party he was. I don't think he was ever recognized as being in one party or the other party, or no party. That started it. Then there was a very tragic death shortly after that and we added another name to it. Then, over the years, it has evolved to recognize all who have served in this building, both legislators and staff, and the lobbyists, who have also helped us in the process, and help us daily on an understanding basis. So that is where this scholarship has evolved from and to, over the years. It's done to recognize the importance that we place on quality education in this day and age. It's done so that we, ourselves, can participate in helping students in Maine better prepare themselves for the 21st century. It's a very small help, but I think it's meaningful and it does help us move our students forward for a better tomorrow. This morning, I'd like to have you join me in recognizing this year's recipients as we present them with their awards. Mr. President.

THE PRESIDENT: We have here, today, over half of the recipients of the awards. We're going to ask them to come up, one at a time, as well as Senator Ruhlin and if there own Senator is present, ask them to come up and we'll present the Legislative Memorial Scholarship Award to them, in front of the rostrum.

The President requested the Sergeant-at Arms escort Brianne Maletich of Lisbon Falls and the Senator from Androscoggin, Senator Nutting to the rostrum. (Amid applause, the members rising.)

The President requested the Sergeant-at Arms escort Jesse D. Connolly of Portland and the Senator from Cumberland, Senator Rand to the rostrum. (Amid applause, the members rising.)

THE PRESIDENT: One of our recipients, Jessica Jordan, is in fact ill today, but her mother is here to accept the award on her behalf.

The President requested the Sergeant-at Arms escort Debbie Jordan of Kingfield and the Senator from Franklin, Senator Benoit to the rostrum. (Amid applause, the members rising.)

The President requested the Sergeant-at Arms escort Kate Unkel-Loomis of Blue Hill and the Senator from Hancock, Senator Goldthwait to the rostrum. (Amid applause, the members rising.)

The President requested the Sergeant-at Arms escort Scott Maddox of Augusta to the rostrum. (Amid applause, the members rising.)

The President requested the Sergeant-at Arms escort Jason Heath of Warren to the rostrum. (Amid applause, the members rising.)

The President requested the Sergeant-at Arms escort Bridie McGreavy of Brownfield and the Senator from Oxford, Senator Ferguson to the rostrum. (Amid applause, the members rising.)

The President requested the Sergeant-at Arms escort Benjamin Scheurenbrand of Skowhegan to the rostrum. (Amid applause, the members rising.)

The President requested the Sergeant-at Arms escort Becky-Jo Gamble of Frankfort and the Senator from Waldo, Senator Longley to the rostrum. (Amid applause, the members rising.)

The President requested the Sergeant-at Arms escort Laura Crockett of Machias and the Senator from Washington, Senator Cassidy to the rostrum. (Amid applause, the members rising.)

THE PRESIDENT: There are several Legislative Scholarship recipients who could not attend today and we would like to recognize them. Rachele Smith of Caribou, Jennifer Elwell of Bristol, Michael Lieser of Veazie, Renee Libby of Charleston, Emily T. Coes of Phippsburg, and Shanna L. Underwood of West Buxton. We are also pleased to have here, many of the parents and family of the recipients and we would ask all the recipients and their parents and family to rise and receive the greetings of the Senate. (Amid applause, the members rising.)

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

ORDERS

Joint Order

On motion by Senator PARADIS of Aroostook, the following Joint Order: S.P. 859

ORDERED, the House concurring, that the Joint Standing Committee on Health and Human Services report out, to the Senate, legislation regarding training for law enforcement and emergency medical services personnel.

READ and PASSED.

Sent down for concurrence.

Senate at Ease

Senate called to order by the President.

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 (3/10/98) Assigned matter:

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act Regarding the Taxation of Goods Purchased in Connection with the Operation of a High-stakes Beano or High-Stakes Bingo Game" H.P. 1307 L.D. 1855

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

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-810)** (5 members)

Tabled - March 10, 1998, by Senator **RUHLIN** of Penobscot.

Pending - motion by same Senator to **RECONSIDER** whereby **ACCEPTANCE** of the Minority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **FAILED**

(In House, February 26, 1998, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-810).**)

(In Senate, March 10, 1998, motion by Senator **RUHLIN** of Penobscot to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **FAILED.**)

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

Senator **RUHLIN:** Thank you Mr. President. May I, first of all, make a parliamentary inquiry?

THE PRESIDENT: The Senator may make his parliamentary inquiry.

Senator **RUHLIN:** Thank you Mr. President. It is my understanding that the motion that failed was acceptance of the Minority Ought to Pass as amended report?

THE PRESIDENT: The Chair would answer in the affirmative.

Senator **RUHLIN:** Thank you Mr. President. May I continue.

THE PRESIDENT: The Senator may continue.

Senator **RUHLIN:** Thank you Mr. President and honorable Senators of Maine. I think, this morning, we should take just a few moments to review a discussion that we had last week, concerning this particular measure. Over the weekend, from some of the votes that I saw yesterday, I think we may have forgotten and that's very understandable.

First of all, I'm going to give you a very brief history. This particular proposal was brought to the Taxation Committee and it involves a sales tax exemption for the prizes that are awarded at the Indian High-stakes Beano, or Bingo, games. Now, when the bill first came before the Committee, it did, in fact, have some implications for the land settlement case of 1980. That bothered the Committee. The Committee looked at it. It made an amendment, this year, that narrowed the scope so that this particular proposal that we are now talking about deals strictly with one sales tax exemption for the Indian tribes who are buying the prizes to be awarded at the Beano games. Now, why would

we want that? This Senator has stood here and fought off exemption after exemption, after exemption. Why would we want to make an exception in this case? Very simply. Because of recognition of one fact, where among the Tribes land is held in common. They have no property tax base on which to run their municipal operations. Consequently, they use the funds after paying the State \$50,000, by the way. They then use the funds derived from this Beano to run their municipal operation. That municipal operation and the Beano game are both overseen by a freely elected tribal-wide Tribal Council, which serves, if you will, as their City Council. So, it's a legitimate municipal operation that we are allowing this tax exemption. It's further been that we studied a court case. The court says that the Indians, if they're running a business in the tribal nation, they cannot be exempt, in and by itself. However, if it is a municipal operation, it is up to the will of the Legislature. What we're asking is recognition, that every other municipality in this state is granted sales tax exemption status for the purposes of operating that municipal government. We ask that we be fair and do the same thing for the Indian tribes.

Recently, the Maine Indian Tribal State Commission, members of the tribes and members of the state, who specialize in Indian state relationships, held their regular meeting. At that meeting the Commission voted unanimously to support this Minority position and exemptions, based on the fact that it is a municipal operation. I hope when you give consideration to the facts that have been laid before you this morning that you'll go forward and support that Minority Ought to Pass as amended report. Thank you.

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

Senator **MILLS:** Thank you Mr. President. At this juncture I would defer to the Majority Leader.

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

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

Senator **MILLS:** Thank you Mr. President and men and women of the Senate. I voted against this bill in Committee and here on this floor because I am extremely concerned about the ramifications of this bill. I'm concerned about the precedent it may set for future dealings with the tribes, for the implications that it may have for the operation of future gambling, or gaming operations in this state, operated by the tribes. I'm deeply concerned by the manner in which this bill was presented to our Committee, in its original draft. While I agree that municipalities who are purchasing plow trucks, and graders, and other equipment, ought to be exempt from sales taxation as they are, because they need this equipment in the performing of a legitimate governmental function, I seriously question whether if the town of Cornville decided to fund its operations by means of a Bingo, or a Beano, game, whether it would be appropriate public policy to say that the prizes that the town purchases, and other accouterments of the business operation of running a Bingo parlor, whether those purchases ought to be exempt from sales taxation by the state of Maine. I understand and believe that other entities, like charitable entities that run Bingo operations

are not exempt from taxation in parallel circumstances. And they too, are operating for good purposes, arguably, and with good intentions perhaps. But, I'm concerned about the setting of a precedent in this situation. I'm concerned about the uncertain and unknown implications of passing a bill like this. It may have very small, or very narrow, applicability in the fashion in which things are currently going on and being managed by the tribe. But it may have future implications that are far larger than anything that we are presently contemplating as we review the language of this bill. I would urge that we hold to our Ought Not to Pass and that we defeat this bill. And I'm not entirely clear, parliamentary, what the affect is of the current motion. I gather it's a motion to reconsider, Mr. President?

THE PRESIDENT: The pending question before the Senate is the motion of the Senator from Penobscot, Senator Ruhlin, to reconsider whereby acceptance of the Minority Ought to Pass as amended by Committee Amendment "B" report, in concurrence, failed.

The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Thank you. So, if we oppose the bill, we should oppose the pending motion?

THE PRESIDENT: The Chair would answer in the affirmative. The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Thank you Mr. President.

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

Senator **DAGGETT:** Thank you Mr. President and members of the Senate. This has been a somewhat difficult issue for me, for a variety of reasons. I did vote against the bill in Committee and then, subsequent to that, when some information was given to me, I waffled a bit. But I'm here to straighten the record out and have taken another look at the information, and revisited the reasons why I opposed this tax exemption in the first place. I feel very strongly that this is not a tax exemption that we should be putting into place at this time and under these circumstances. I just wanted to make reference to the material that was provided to the Committee from the State Tax Assessor last year. The recommendations, at that time, of the State Tax Assessor were that "the entire area," and I'm reading from his letter, "The entire area of tribal governments and taxation, both state and federal, is complex and becoming increasingly controversial. For this reason, we respectfully request that the bill be carried over and the Taxation Committee examine, next year, the entire range of tribal taxation issues." Examining the entire range of taxation issues regarding the Indian nations is a huge issue. While I have not been present at all of the Committee's deliberations, due to my responsibilities in the Committee that I Chair, I really don't feel that that particular piece has taken place. Now that memo was from last year. The memo that we have from the Tax Assessor for the current year, which came in indicates that the technical drafting concerns have been addressed; however, the substantive and policy concerns have not. This is a memo dated this year. "Offering a sales tax exemption to the Penobscot and Passamaquoddy nations creates further inequities in the treatment of charitable organizations." And I think that's

something we really need to take a look at. I don't believe that that issue has been clearly addressed.

The other issue, and I think this is another one that we really need to take a look at. Again, I'm reading from his letter. "Statements made in the popular press and from the public suggest that some tribal leaders have proposed a bill to serve a station near the Canadian border and sell gasoline tax exempt, putting existing Maine businesses at a serious disadvantage." I've also read that a proposal to build a tax exempt hazardous waste facility near Eastport, and Albany Township, has been subject to much speculation about possible future gambling. I do not suggest that this Committee reject this legislation based on rumor and press reports. It may be worthwhile however, to address the much larger tribal taxation issue.

Finally, I need to point out that our fiscal estimate, provided to you last May, needs to be updated, in light of the Albany Township project. I think this raises enough concerns that we need to not put this tax exemption in place at this time. It's much harder to remove a tax exemption once it has been put in place. I know that there has been a good deal of conversation around this building and in the general public, regarding tax reform and, certainly, the Taxation Committee has spent a lot of time looking at this. It would be my hope, and one reason why I voted against the tax exemptions and increasing ones, is that instead of listing them individually, which we are doing now, this would be number 78, is that we look at what is appropriate for broad categories of tax exemptions as opposed to dealing with them on an individual basis. This, in it's very nature, creates incredible inequities. I would encourage you to oppose the motion.

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

Senator **FERGUSON:** Thank you Mr. President and ladies and gentlemen of the Senate. I do represent Albany Township in the Maine State Senate. I have a couple of concerns. Why is this exemption coming forward at this particular time? The Indian nations have been running Beano games for a number of years. The folks in Albany are extremely concerned about this. It seems to me that we're ill-advised to bring legislation to increase the exemptions for this type of thing at this particular time. I would concur with the good Senator from Kennebec, Senator Daggett. She's pretty much laid out the arguments against it and I'm not going to be redundant. But I would hope that the members would vote against the prevailing motion to reconsider. Thank you Mr. President.

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

Senator **CATHCART:** Thank you Mr. President and men and women of the Senate. I rise and ask your support for the motion of the good Senator from Penobscot, Senator Ruhlín. First, I'd like to attempt to answer the question of the Senator from Oxford, Senator Ferguson. It is my understanding that this issue is coming up at this time because the Bureau of Taxation Revenue, whatever it's called at this time, brought this issue up again last year and attempted to begin to charge the Penobscot nation sales tax on the goods they purchase for prizes for their High-stakes Beano. The Indians responded with legislation to try to protect the tax exemption that they have assumed that they had, and the state has assumed that they had, since 1987 when a statute was passed allowing a federally-recognized Indian tribe,

the Penobscots, to hold High-stakes Beano games in order to fund governmental operations. So, I don't think it was on the initiative of the Penobscots that this really came up again, this happened again. This was 1987, the original law was passed. In 1991, apparently, from the information that I have here, the Bureau of Taxation attempted to begin to charge sales tax on the goods purchased. They were rejected at that time. The letter I have from Senator Judy Kany who had then been Chair of the Legal and Veterans Affairs Committee says that the Penobscots, by 1987 law, were already paying \$50,000 a year and is currently. They're already paying a percentage of what they earn on the Bingo to the state, in lieu of taxes. It had never been taxed.

What I don't understand, my question is why would the Bureau of Taxation bring it up and try it again, five years later in 1997, to start taxing something that had not been taxed for ten years? I also would like to point out that the Penobscot nation is not a charitable organization. They differ from many of the groups in my area, such as the American Legion, that run Bingo games. They are a sovereign nation, an Indian tribe, and they use these gainings on their Bingo, by law, only for governmental operations and to fund their municipal services. They are my neighbors. They are my constituents. I think they are all of our neighbors and we should recognize that they are, indeed, a separate nation who have a need and a right to use what they can earn to fund their government. So, I urge you again to support the motion by the Senator from Penobscot, Senator Ruhlín. Thank you Mr. President.

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

Senator **DAGGETT:** Thank you Mr. President and members of the Senate. I just wanted to speak one more time to clarify what my understanding is. I would freely admit that that may be incorrect. However, I have the good fortune to serve on the Legal and Veteran Affairs Committee, and have for three terms, and have Chaired that for two. It's my understanding that the money, which comes to the state from the high-stakes operation, is to reimburse the state and to pay for the administrative costs of overseeing that program. There are people in law enforcement and public safety who oversee that. It's my understanding that that is what the money is for. It is not for payment in lieu of taxes. I would just reiterate that when it was said that this is a sovereign nation, they are different from other Beano games, I would say that is precisely the point. Issues dealing with taxation of a sovereign nation, changes in that, need to be looked at very carefully and not in the same context that we look at others. Thank you.

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

Senator **RUHLIN:** Thank you Mr. President and honorable Senators. I'm not going to belabor this point. I do think a couple of things need to be cleared up. First of all, I think the good Senator from Penobscot, Senator Cathcart, did an excellent job in explaining why the timing was such. Basically, for ten years, they were under the assumption of being tax exempt. Through the administrative process someone in the Bureau of Revenue Service, it's called now, the Bureau of Taxation is what we used to call it, decided unilaterally that they were no longer going to have that tax exemption. I would point out that you've heard

today, from the Bureau of Taxation, on a report that was a year old, that dealt with the original bill. The original bill which I, myself, and I think every member of that Committee had great problems with because it was implication for the land settlement issue. So, I wish that you would keep in mind that that report that you heard was, in fact, an old report. The fiscal note on this bill is \$2,800, and it clearly and narrowly, and I want to emphasize the narrowness, recognizes and addresses the problem in the state of Maine, dealing with municipal services rendered by the sovereign nations. Thank you.

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

Senator **BENNETT:** Thank you Mr. President and fellow members of the Senate. I have the privilege of representing many people in Oxford County. I live very close to Albany Township and I've heard from a lot of my constituents about their concerns about the facility there. I want to just speak briefly about this issue which has been raised about the purpose of these revenues for governmental operations, because I do think that's important. I can understand how one could see the Beano operations in Pleasant Point or Old Town to be directly related to municipal government operations. But I would suggest to you that the proposed gambling facility in Albany Township is a business undertaking. And it's purely and simply a business undertaking. It's a business that will be located in Oxford County, far away from where most of the members of the nations live. It's going to directly impact the people of Oxford County. It's going to directly impact the county taxes. The people I represent are concerned about higher county cost and law enforcement and other services demanded that they'll be required to pay for. I do believe, as Senator Daggett has suggested, that we need to evaluate this request in a broader context. Unfortunately, at the present time, that context is not available. I would encourage you to vote against the pending motion and defeat this bill. Thank you.

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

Senator **MILLS:** Thank you Mr. President and men and women of the Senate. Just briefly, the use of the phrase, "sovereign nation," as a label for purposes of solving all sorts of very difficult and intricate policy issues is something to which I take exception. I believe very strongly that the tribes constitute a sovereign culture that we should all respect as deeply as we can. I, for one, respect that culture. It is the culture that needs to be nourished. It needs to survive within the context of our much larger and greater society. It needs to survive economically, among other things. But to suggest, as is implied by the presentation of this bill, that a certain group of people living in close association with us all is somehow, completely exempt, or in some major way, exempt from the rule of law that is established by this Legislature, is a very, very dangerous assertion. This is a very dangerous concept. It has done violence to the cultures of some of our other states. There was a front page article in the New York "Times," this Sunday, that dealt with this problem as it is occurring in much deeper and more significant ways in the western states. But, we cannot be tempted to try to solve these difficult issues by putting a label on the issue and saying, "There, that answers the policy issue." Thank you.

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

Senator **RUHLIN:** Mr. President, if I have spoken twice, I request permission to speak a third time only in response for informational purposes.

THE PRESIDENT: The Chair would respond that the Senator is the mover of the motion, so he's allowed to speak three times. The Senator may continue.

Senator **RUHLIN:** Thank you Mr. President. I just wanted to point out very briefly, Mr. President, that I have it on legal advice, that I put confidence in, that if it is, in fact, as has been mentioned by the good Senator from Oxford, operated as a business that it would not, in fact, be tax exempt. The difference is, and it's also come down through in a court ruling, I may stand to be corrected, but it's my understanding as I stand here this morning, and I have had what I'd consider competent advice on the matter, that there is a difference. If it is run as a municipal operation, overseen by elected representatives then it is, in fact, a municipal operation and could be, under this bill, would be tax exempt. But if it was operated as a business, as was stated, then it would not be tax exempt. Thank you.

THE PRESIDENT: Is the Senate ready for the question? The Chair will repeat the question, since it is a very confusing question. The motion is to reconsider whereby acceptance of the Minority Ought to Pass as amended Committee report, failed.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: CAREY, CASSIDY, CATHCART, CLEVELAND, HALL, JENKINS, LONGLEY, MURRAY, NUTTING, PARADIS, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, DAGGETT, FERGUSON, GOLDTHWAIT, HARRIMAN, KIEFFER, LAFOUNTAIN, LIBBY, MACKINNON, MICHAUD, MILLS, MITCHELL, O'GARA, PENDLETON, SMALL

ABSENT: Senators: KILKELLY, PINGREE

14 Senators having voted in the affirmative and 19 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **RUHLIN** of Penobscot to **RECONSIDER** whereby the Senate **FAILED** to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **FAILED**.

The Majority **OUGHT NOT TO PASS** Report **ACCEPTED** in **NON-CONCURRENCE**.

Sent down for concurrence.

THE PRESIDENT: The Chair has become aware of a conspiracy to frustrate the Secretary of the Senate in the establishing of a photo day and, I believe, it's a conspiracy for all of you wanting to come back after session to have the photo taken after session. But we think we've narrowed it down to the day and I'm going to ask for a quorum call for March 25th. I'm going to ring the bell to get all the members back in. If you are able to have your photo taken on March 25th, please press the green button. Again, we are voting on whether or not you are able to participate in the Senate photo on March 25th. Once more, the pending question before the Senate is, can you be here on March 25th for the picture? Have all members now voted? The Chair will close the vote. It appears we have a day, March 25th at 10:00 o'clock in the morning.

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

Off Record Remarks

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

Off Record Remarks

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

Off Record Remarks

Senator **LONGLEY** of Waldo was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senator **GOLDTHWAIT** of Hancock 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.

Off Record Remarks

On motion by Senator **RAND** of Cumberland, **ADJOURNED** until Thursday, March 12, 1998, at 9:00 in the morning.