

MAINE STATE LEGISLATURE

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One Hundred and Twentieth Legislature
State of Maine

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

In Senate Chamber
Wednesday
February 27, 2002

Senate called to order by President Richard A. Bennett of Oxford County.

Prayer by Reverend Lily James, Riverview Community Congregational Parish in Gardiner.

REVEREND JAMES: Good morning. Let us pray.
All mighty God and Creator of the world, we take this moment to bow before Your awesome presence. We humbly ask for Your divine touch of inspiration and direction for the proceedings of this hour. Where there is confusion, inspire clarity. Where there is discord, give incentive to unity. Where there is a stalemate, give voice for a new direction. We seek Your face, oh Lord, to be a source of strength during the wearying hours spent serving others as Senators, as staff and assistants, and to all that have the power of voice to speak so that deliberations of this body continue to protect and to reform. Encourage those who are here today, who daily strive to serve the people of Maine, our Senators, their staff, and be especially near to their own family members and fill them with a renewed sense of pride as they rally support behind their loved ones efforts to keep Maine a safe and beautiful state. We come to the door of Your throne, oh Lord, and knock, for we need Your wisdom to guide the citizens towards a better Maine while preserving all the You have entrusted to us, honoring our traditions and convictions for the best way to direct our state. We quietly take this time to acknowledge our need of You, the true source for all wisdom, strength, and inspiration. May all that is said and done within these hallowed halls of legislature be for the glory of this great nation and to the God who protects each one of us. In his holy name we ask. Amen.

Doctor of the day, Jo Linder, M.D. of Falmouth.

Reading of the Journal of Tuesday, February 26, 2002.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act to Amend the Laws Governing the Deduction of Pension and Retirement Benefits from State Income Tax"
S.P. 242 L.D. 810
(C "A" S-407)

In Senate, February 5, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-407).**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-407) AS AMENDED BY HOUSE AMENDMENT "A" (H-824)** thereto, in **NON-CONCURRENCE.**

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

Off Record Remarks

Non-Concurrent Matter

Bill "An Act to Strengthen the Habitual Offender Law"
S.P. 653 L.D. 1832
(C "A" S-409)

In Senate, February 6, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-409).**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-409) AND HOUSE AMENDMENT "B" (H-816),** in **NON-CONCURRENCE.**

The Senate **RECEDED** and **CONCURRED.**

Non-Concurrent Matter

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Allow for Loans to be Repaid With Federal Transportation Funds

S.P. 705 L.D. 1907
(C "A" S-419)

In Senate, February 14, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-419).**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-419) AS AMENDED BY HOUSE AMENDMENT "A" (H-842)** thereto, in **NON-CONCURRENCE.**

The Senate **RECEDED** and **CONCURRED.**

SENATE PAPERS

**Pursuant to Joint Order
Joint Standing Committee on Education and Cultural Affairs**

Senator MITCHELL for the **Joint Standing Committee on Education and Cultural Affairs** pursuant to Joint Order 2001, S.P. 773 asks leave to report that the accompanying Bill "An Act Regarding the Local Governance of School Administrative Units" S.P. 791 L.D. 2143

Be **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed pursuant to Joint Rule 218.

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

REFERRED to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed pursuant to Joint Rule 218.

Sent down for concurrence.

Off Record Remarks

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE** on Resolve, Establishing the Commission to Examine the Maine Correctional Institute (EMERGENCY) H.P. 993 L.D. 1330

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

Signed:

Senators:

McALEVEY of York
O'GARA of Cumberland
DAVIS of Piscataquis

Representatives:

POVICH of Ellsworth
TOBIN of Dexter
PEAVEY of Woolwich
WHEELER of Bridgewater

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-832)**.

Signed:

Representatives:

O'BRIEN of Lewiston
BLANCHETTE of Bangor

QUINT of Portland
SNOWE-MELLO of Poland
GERZOFISKY of Brunswick
MITCHELL of Vassalboro

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-832)**.

Reports **READ**.

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

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Improve Maine's Jail Diversion Programs" H.P. 191 L.D. 202

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-829)**.

Signed:

Senators:

RAND of Cumberland
McALEVEY of York
FERGUSON of Oxford

Representatives:

LaVERDIERE of Wilton
BULL of Freeport
JACOBS of Turner
MITCHELL of Vassalboro
SIMPSON of Auburn
MUSE of South Portland
MENDROS of Lewiston

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

Signed:

Representatives:

MADORE of Augusta
WATERHOUSE of Bridgton
SHERMAN of Hodgdon

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-829)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-829) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION.

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Dissolve the Ministerial Accounts in the Town of Readfield's Trust Fund"
H.P. 1416 L.D. 1860

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

Signed:

Senators:

PENDLETON of Cumberland
YOUNGBLOOD of Penobscot
ROTUNDO of Androscoggin

Representatives:

BAGLEY of Machias
McDONOUGH of Portland
HATCH of Skowhegan
LESSARD of Topsham
McLAUGHLIN of Cape Elizabeth
KASPRZAK of Newport
MURPHY of Berwick
HASKELL of Milford

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

Signed:

Representatives:

CHASE of Levant
CRESSEY of Baldwin

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

Reports **READ.**

Senator **PENDLETON** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT 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 TO PASS** Report, in concurrence.

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Create the Office of the Maine-Canada Envoy"

H.P. 1505 L.D. 2008

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

Signed:

Senators:

PENDLETON of Cumberland
YOUNGBLOOD of Penobscot

Representatives:

McDONOUGH of Portland
McLAUGHLIN of Cape Elizabeth
KASPRZAK of Newport
CHASE of Levant
CRESSEY of Baldwin

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-791).**

Signed:

Representatives:

BAGLEY of Machias
HATCH of Skowhegan
LESSARD of Topsham
MURPHY of Berwick
HASKELL of Milford

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-791) AS AMENDED BY HOUSE AMENDMENT "A" (H-809)** thereto.

Reports **READ.**

Senator **MARTIN** of Aroostook moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Senate

Ought to Pass As Amended

Senator GAGNON for the Committee on **TAXATION** on Bill "An Act to Amend the Laws Relating to Development Districts"
S.P. 725 L.D. 1966

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-441)**.

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

READ ONCE.

Committee Amendment "A" (S-441) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION.

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act Regarding Cigarette Tax Stamps" (EMERGENCY)
S.P. 692 L.D. 1894

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

Signed:

Representatives:

GREEN of Monmouth
STANLEY of Medway
McGOWAN of Pittsfield
BUMPS of China
BOWLES of Sanford
McLAUGHLIN of Cape Elizabeth

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-442)**.

Signed:

Senators:

GAGNON of Kennebec
KNEELAND of Aroostook

Representatives:

GAGNE of Buckfield
MURPHY of Berwick
BUCK of Yarmouth

Reports **READ**.

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

SECOND READERS

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

House

Bill "An Act to Allow Landowner Permits to be Issued for Turkey Hunting" (EMERGENCY)

H.P. 1442 L.D. 1939

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

House As Amended

Bill "An Act to Allow Municipalities to Create Capital Improvement Districts"

H.P. 441 L.D. 562
(C "A" H-822)

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

Bill "An Act to Modify Investment-related Insurance Company Provisions of the Maine Insurance Code"

H.P. 1475 L.D. 1976
(S "A" S-439 to C "A" H-812)

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

Sent down for concurrence.

Senate

Bill "An Act to Allow Mechanics Licensed by the Manufactured Housing Board to Install and Maintain Oil Tanks"

S.P. 686 L.D. 1888

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

Sent down for concurrence.

Senate As Amended

Bill "An Act to Clarify that the Sales Tax Exemption for Purchase of Manufacturing Equipment Applies Equitably"

S.P. 133 L.D. 457
(C "B" S-412)

Bill "An Act Regarding Certain Educational Requirements for Licensed Social Workers"

S.P. 709 L.D. 1911
(C "B" S-435)

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

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the following Tabled and Later (2/26/02) Assigned matter:

Emergency

An Act to Assist Municipalities of Sagadahoc County with the Change in the County Budget Year

S.P. 726 L.D. 1967
(C "A" S-417)

Tabled - February 26, 2002, by Senator **SMALL** of Sagadahoc

Pending - **ENACTMENT**, in concurrence

(In Senate, February 13, 2002, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-417).**)

(In House, February 26, 2002, **PASSED TO BE ENACTED.**)

On motion by Senator **SMALL** of Sagadahoc, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-417).**

On further motion by same Senator, Senate Amendment "A" (S-440) **READ** and **ADOPTED.**

PASSED TO BE ENGROSSED AS AMENDED COMMITTEE AMENDMENT "A" (S-417) AND SENATE AMENDMENT "A" (S-440), in NON-CONCURRENCE.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator MITCHELL for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Increase the Debt Limit of the Calais School District" (EMERGENCY)
S.P. 744 L.D. 2074

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-443).**

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

READ ONCE.

Committee Amendment "A" (S-443) **READ** and **ADOPTED.**

ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION.

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

Off Record Remarks

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

COMMUNICATIONS

The Following Communication: S.C. 587

**120TH LEGISLATURE
JOINT STANDING COMMITTEE ON
BUSINESS AND ECONOMIC DEVELOPMENT**

February 19, 2002

The Honorable Richard A. Bennett
President of the Senate of Maine
120th 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 120th Maine Legislature, the Joint Standing Committee on Business and Economic Development has had under consideration the nomination of William P. Morgan of Gorham, for reappointment to the Maine Educational Loan Authority.

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

YEAS Senators	3	Bromley of Cumberland, Shorey of Washington, Youngblood of Penobscot
Representatives	7	Bryant of Dixfield, Clough of Scarborough, Hatch of Skowhegan, Michaud of Fort Kent, Murphy of Kennebunk, Richardson of Brunswick, Thomas of Orono
NAYS	0	
ABSENT	3	Rep. Dorr of Camden, Rep. Duprey of Hampden, Rep. Morrison of Baileyville

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 William P. Morgan of Gorham, for reappointment to the Maine Educational Loan Authority be confirmed.

Signed,

S/Kevin L. Shorey
Senate Chair

S/John G. Richardson
House Chair

READ and ORDERED PLACED ON FILE.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 120th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

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

ROLL CALL (#229)

YEAS: Senators: None

NAYS: Senators: BROMLEY, CARPENTER,
CATHCART, DAGGETT, DAVIS, DOUGLASS,
EDMONDS, FERGUSON, GAGNON,
GOLDTHWAIT, KNEELAND, LEMONT, LONGLEY,
MARTIN, MCALEVEY, MICHAUD, MITCHELL,
PENDLETON, RAND, ROTUNDO, SAVAGE,
SAWYER, SHOREY, SMALL, TREAT, TURNER,
WOODCOCK, YOUNGBLOOD, THE PRESIDENT -
RICHARD A. BENNETT

ABSENT: Senators: KILKELLY, MILLS, NUTTING,
O'GARA

EXCUSED: Senator: LAFOUNTAIN

No Senator having voted in the affirmative and 29 Senators having voted in the negative, with 4 Senators being absent and 1 Senator being excused, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **William P. Morgan** of Gorham, for reappointment to the Maine Educational Loan Authority was **CONFIRMED**.

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

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

COMMUNICATIONS

The Following Communication: S.C. 588

**120TH LEGISLATURE
JOINT STANDING COMMITTEE ON
BUSINESS AND ECONOMIC DEVELOPMENT**

February 19, 2002

The Honorable Richard A. Bennett
President of the Senate of Maine
120th 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 120th Maine Legislature, the Joint Standing Committee on Business and Economic Development has had under consideration the nomination of John Murphy of Fort Kent, for reappointment to the Maine Educational Loan Authority.

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

YEAS Senators	3	Bromley of Cumberland, Shorey of Washington, Youngblood of Penobscot
Representatives	7	Bryant of Dixfield, Clough of Scarborough, Hatch of Skowhegan, Michaud of Fort Kent, Murphy of Kennebunk, Richardson of Brunswick, Thomas of Orono
NAYS	0	
ABSENT	3	Rep. Dorr of Camden, Rep. Duprey of Hampden, Rep. Morrison of Baileyville

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 John Murphy of Fort Kent, for reappointment to the Maine Educational Loan Authority be confirmed.

Signed,

S/Kevin L. Shorey
Senate Chair

S/John G. Richardson
House Chair

READ and ORDERED PLACED ON FILE.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 120th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#230)

YEAS: Senators: None

NAYS: Senators: BROMLEY, CARPENTER, CATHCART, DAGGETT, DAVIS, DOUGLASS, EDMONDS, FERGUSON, GAGNON, GOLDTHWAIT, KNEELAND, LEMONT, LONGLEY, MARTIN, MCALEVEY, MICHAUD, MITCHELL, PENDLETON, RAND, ROTUNDO, SAVAGE, SAWYER, SHOREY, SMALL, TREAT, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - RICHARD A. BENNETT

ABSENT: Senators: KILKELLY, MILLS, NUTTING, O'GARA

EXCUSED: Senator: LAFOUNTAIN

No Senator having voted in the affirmative and 29 Senators having voted in the negative, with 4 Senators being absent and 1 Senator being excused, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **John Murphy** of Fort Kent, for reappointment to the Maine Educational Loan Authority was **CONFIRMED**.

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

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

COMMUNICATIONS

The Following Communication: S.C. 589

**120TH LEGISLATURE
JOINT STANDING COMMITTEE ON NATURAL RESOURCES**

February 26, 2002

The Honorable Richard A. Bennett
President of the Senate of Maine
120th 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 120th Maine Legislature, the Joint Standing Committee on Natural Resources has had under consideration the nomination of George A. Smith of Mt. Vernon, for reappointment to the Maine Outdoor Heritage Fund 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:

LEGISLATIVE RECORD - SENATE, WEDNESDAY, FEBRUARY 27, 2002

YEAS Senators 1 Martin of Aroostook
 Representatives 8 Annis of Dover-Foxcroft, Clark of Millinocket, Cowger of Hallowell, Daigle of Arundel, Duplessie of Westbrook, Koffman of Bar Harbor, Tobin of Windham, Twomey of Biddeford

NAYS 0

ABSENT 4 Rep. Baker of Bangor, Rep. Crabtree of Hope, Sen. Sawyer of Penobscot, Sen. Shorey of Washington

Nine 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 George A. Smith of Mt. Vernon, for reappointment to the Maine Outdoor Heritage Fund Board be confirmed.

Signed,
 S/John L. Martin Senate Chair S/Scott W. Cowger House Chair

READ and ORDERED PLACED ON FILE.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **NATURAL RESOURCES** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 120th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#231)

YEAS: Senators: None
 NAYS: Senators: BROMLEY, CARPENTER, CATHCART, DAGGETT, DAVIS, DOUGLASS, EDMONDS, FERGUSON, GAGNON, GOLDTHWAIT, KNEELAND, LEMONT, LONGLEY, MARTIN, MCALEVEY, MICHAUD, MITCHELL, PENDLETON, RAND, ROTUNDO, SAVAGE, SAWYER, SHOREY, SMALL, TREAT, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - RICHARD A. BENNETT
 ABSENT: Senators: KILKELLY, MILLS, NUTTING, O'GARA
 EXCUSED: Senator: LAFOUNTAIN

No Senator having voted in the affirmative and 29 Senators having voted in the negative, with 4 Senators being absent and 1 Senator being excused, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **George A. Smith** of Mt. Vernon, for reappointment to the Maine Outdoor Heritage Fund Board was **CONFIRMED**.

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

Off Record Remarks

Senator **SAWYER** of Penobscot was granted unanimous consent to address the Senate off the Record.

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

Senator **SMALL** of Sagadahoc was granted unanimous consent to address the Senate off the Record.

On motion by Senator **DAVIS** of Piscataquis, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on **CRIMINAL JUSTICE** on Resolve, Establishing the Commission to Examine the Maine Correctional Institute (EMERGENCY) H.P. 993 L.D. 1330

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

Minority - **Ought To Pass as Amended by Committee Amendment "A" (H-832)** (6 members)

Tabled - February 27, 2002, by Senator **MCALEVEY** of York

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, February 26, 2002, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-832).**)

(In Senate, February 27, 2002, Reports **READ.**)

Senator **MCALLEVEY** of York moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

Senator **ROTUNDO** of Androscoggin requested a Division.

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

Senator **MCALLEVEY:** Thank you, Mr. President, men and women of the Senate. I'll be very brief, but I just thought I should explain why we had a majority report. When we initially heard the bill last session, we heard some very horrendous horror stories and we were unable to get to the truth of the matter during that session, so we carried the bill over and we asked the participants, the department, the Counsel of Churches, the ACLU, and individuals who came forward with allegations of prisoners being beaten and chained to come forward in the this session with some data and proof. Though we had the hearing, they were not present with the information, so we postponed it again. We asked them to come forward and they did not. We can only work on truth. It's poor public policy to work on rumor and innuendo. The reality is 50 of those prisoners in that facility have been moved back into the regular prison. We've converted one section of that into a mental health unit. If I, or any members of our committee, hear of any abuse, and we have in the past, we've always brought it to the attention of the department. I haven't left it there; I've always followed through because I want answers. I hope if any of you have ever heard of any abuse, you would feel free to contact the department or contact me. As I have said in the past, I've been their strongest supporter, but I am also their strongest critic. Is everything perfect there? No. There is always room for improvement. But short of actual specifics, we didn't feel this bill had any merit and we will be glad to revisit it if anybody ever brings up a potential problem, because I want to know about potential problems and solve them. If something does happen that is inappropriate, I want to make sure the people responsible are held accountable and it doesn't happen again. But the people we charged with coming back with very specific testimony sat on their hands when they came back or did not show up again. We cannot deal with rumor or innuendoes, we have to deal in truth and facts. If the truth and facts are out there and people don't bring them forward, that's another matter. All of the members of the committee made it clear to the participants that if they didn't feel comfortable talking publicly they could approach committee members privately and we would keep their confidence. That did not happen either. Thank you very much.

At the request of Senator **ROTUNDO** of Androscoggin a Division was had. 19 Senators having voted in the affirmative and 5 Senators having voted in the negative, the motion by Senator **MCALLEVEY** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**, **PREVAILED**.

Sent down for concurrence.

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

SENATE REPORTS - from the Committee on **TAXATION** on Bill "An Act Regarding Cigarette Tax Stamps" (EMERGENCY)
S.P. 692 L.D. 1894

Majority - **Ought Not to Pass** (6 members)

Minority - **Ought To Pass as Amended by Committee Amendment "A" (S-442)** (5 members)

Tabled - February 27, 2002, by Senator **GAGNON** of Kennebec

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, February 27, 2002, Reports **READ.**)

Senator **GAGNON** of Kennebec moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report.

Senator **FERGUSON** of Oxford requested a Division.

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

On motion by Senator **SMALL** of Sagadahoc, **TABLED** until Later in Today's Session, pending the motion by Senator **GAGNON** of Kennebec to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report. (Roll Call Ordered)

The Chair laid before the Senate the following Tabled and Later (2/21/02) Assigned matter:

SENATE REPORT - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Give the Department of Administrative and Financial Services, Bureau of General Services Discretion Regarding Building Codes"
S.P. 671 L.D. 1874

Report - **Ought to Pass as Amended by Committee Amendment "A" (S-432)**

Tabled - February 21, 2002, by Senator **PENDLETON** of Cumberland

Pending - **ACCEPTANCE OF REPORT**

(In Senate, February 21, 2002, Report **READ.**)

Report **ACCEPTED**.

READ ONCE.

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

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (2/21/02) Assigned matter:

SENATE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Waive the Competitive Bid Requirement for Lease of Certain Unused State Facilities" S.P. 672 L.D. 1875

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-431)** (10 members)

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

Tabled - February 21, 2002, by Senator **PENDLETON** of Cumberland

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, February 21, 2002, Reports **READ**.)

On motion by Senator **PENDLETON** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**.

READ ONCE.

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

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (2/21/02) Assigned matter:

Bill "An Act to Abolish the Educational Leave Advisory Board" H.P. 1616 L.D. 2115

Tabled - February 21, 2002, by Senator **DAVIS** of Piscataquis

Pending - **PASSAGE TO BE ENGROSSED**, in concurrence

(In House, February 20, 2002, **PASSED TO BE ENGROSSED**.)

(In Senate, February 21, 2002, **READ A SECOND TIME**.)

PASSED TO BE ENGROSSED, in concurrence.

Under suspension of the Rules, 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 Change the Governing Board of the George Stevens Academy in Blue Hill" (EMERGENCY) H.P. 1639 L.D. 2142

Comes 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.

Bill "An Act to Amend the Animal Welfare Laws and Increase Funding for Animal Welfare" H.P. 1638 L.D. 2141

Comes from the House, **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed.

REFERRED to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** 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

**Pursuant to Statutes
Department of Professional and Financial Regulation**

The **Department of Professional and Financial Regulation** pursuant to the Maine Revised Statutes, Title 5, section 8072 asked leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 750: Standardized Health Plans, Part II HMO Guidelines, a Major Substantive Rule of the Department of Professional and Financial Regulation (EMERGENCY)

H.P. 1635 L.D. 2138

Be **REFERRED** to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** 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 **BANKING AND INSURANCE** and ordered printed pursuant to Joint Rule 218.

Report **READ** and **REJECTED**.

REFERRED to the Committee on **BANKING AND INSURANCE** and ordered printed pursuant to Joint Rule 218, in concurrence.

**Pursuant to Statutes
Department of Professional and Financial Regulation**

The **Department of Professional and Financial Regulation** pursuant to the Maine Revised Statutes, Title 5, section 8072 asked leave to report that the accompanying Resolve, Regarding Legislative Review of Chapter 90: Registration of Foresters for Supervision of Unlicensed Personnel, a Major Substantive Rule of the Department of Professional and Financial Regulation, Office of Licensing and Regulation (EMERGENCY)

H.P. 1636 L.D. 2139

Be **REFERRED** to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** 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 **BUSINESS AND ECONOMIC DEVELOPMENT** and ordered printed pursuant to Joint Rule 218.

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

REFERRED to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and ordered printed pursuant to Joint Rule 218, in concurrence.

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

PAPERS FROM THE HOUSE

House Papers

**Pursuant to Statutes
Department of Human Services**

The **Department of Human Services** pursuant to the Maine Revised Statutes, Title 5, section 8072 asked leave to report that the accompanying Resolve, Regarding Legislative Review of Chapter 296: Patient Brochure and Poster on Dental Amalgam and Alternatives, a Major Substantive Rule of the Department of Human Services (EMERGENCY)

H.P. 1637 L.D. 2140

Be **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** 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 **NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218.

Report **READ** and **REJECTED**.

REFERRED to the Committee on **NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218, in concurrence.

**Pursuant to Statutes
Department of Labor, Bureau of Labor Standards**

The **Department of Labor, Bureau of Labor Standards** pursuant to the Maine Revised Statutes, Title 5, section 8072 asked leave to report that the accompanying Resolve, Regarding Legislative Review of Chapter 9: Rules Governing Administrative Civil Money Penalties for Labor Law Violations, a Major Substantive Rule of the Department of Labor, Bureau of Labor Standards (EMERGENCY)

H.P. 1634 L.D. 2137

Be **REFERRED** to the Committee on **LABOR** 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 **LABOR** and ordered printed pursuant to Joint Rule 218.

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

REFERRED to the Committee on **LABOR** and ordered printed pursuant to Joint Rule 218, in concurrence.

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

PAPERS FROM THE HOUSE

Joint Resolution

The following Joint Resolution: H.P. 1640

**JOINT RESOLUTION IN HONOR OF THE
MAINE FARMER AND MAINE AGRICULTURE**

WHEREAS, Maine's 6,900 farms provide full-time and part-time employment to more than 65,000 workers, approximately 10% of the State's workforce; and

WHEREAS, Maine's agricultural enterprises and associated industries provide more than 500 million dollars in the sale of farm products and contribute more than 1.2 billion dollars annually to the State's economy; and

WHEREAS, Maine farmers are the stewards of 1,250,000 acres of land that is a vital resource in maintaining the food security of Maine people; and

WHEREAS, Maine is first in New England in the production of food, first in the world in the production of wild blueberries, the world leader in the production of brown eggs, 2nd in the nation in the production of maple syrup, 8th in the nation in production of fall potatoes and the only state anywhere involved in the production of fiddleheads; and

WHEREAS, agriculture forged Maine's past, maintains much of Maine's scenic open space, provides recreational opportunities, makes a significant contribution to the nature and character of Maine's many rural communities and provides for a strong future; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twentieth Legislature of the State of Maine, now assembled in the Second Regular Session, pause in our deliberations to honor Maine farmers and innovators who have contributed so much to the betterment of our State and to pledge our support and encouragement, and urge the youth of Maine to pursue the growing opportunities for careers in today's technologically advanced agricultural industry; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Commissioner of Agriculture, Food and Rural Resources in token of the esteem in which those in this vital field are held.

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

READ and **ADOPTED**, in concurrence.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Update the Department of Defense, Veterans and Emergency Management Laws"

H.P. 1288 L.D. 1752

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-837)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-837)**.

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

READ ONCE.

Committee Amendment "A" (H-837) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Allow the Department of Administrative and Financial Services, Bureau of General Services to Make Direct Selection of Architects and Engineers Whose Services Do Not Exceed \$25,000"

H.P. 1427 L.D. 1865

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-826)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-826)**.

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

READ ONCE.

Committee Amendment "A" (H-826) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Amend the Boundaries Between Ripley and St. Albans"

H.P. 1429 L.D. 1926

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-825)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-825)**.

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

READ ONCE.

Committee Amendment "A" (H-825) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **CRIMINAL JUSTICE** on Bill "An Act to Protect Police Horses"

H.P. 1435 L.D. 1932

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-834).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-834).**

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

READ ONCE.

Committee Amendment "A" (H-834) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **LABOR** on Bill "An Act to Promote Organ Donation"

H.P. 1448 L.D. 1945

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-840).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-840).**

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

READ ONCE.

Committee Amendment "A" (H-840) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **LABOR** on Bill "An Act to Promote Safety of Families through the Workplace"

H.P. 1463 L.D. 1960

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-841).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-841).**

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

READ ONCE.

Committee Amendment "A" (H-841) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **CRIMINAL JUSTICE** on Bill "An Act Regarding Fire Safety Laws for Residential Care Facilities"
H.P. 1494 L.D. 1997

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-833).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-833).**

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

READ ONCE.

Committee Amendment "A" (H-833) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **NATURAL RESOURCES** on Bill "An Act to Repeal the Retroactive Effect of Changes Made to the Subdivision Laws" (EMERGENCY)

H.P. 1534 L.D. 2037

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-835).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-835).**

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

READ ONCE.

Committee Amendment "A" (H-835) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **NATURAL RESOURCES** on Bill "An Act to Require Additional Transportation Information on the Maine Chemical Inventory Reporting Form"

H.P. 1564 L.D. 2069

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-836)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-836)**.

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

READ ONCE.

Committee Amendment "A" (H-836) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **UTILITIES AND ENERGY** on Resolve, Regarding Participation in Regional Transmission Organization (EMERGENCY)

H.P. 1492 L.D. 1995

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-838)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-838)**.

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

READ ONCE.

Committee Amendment "A" (H-838) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

SECOND READERS

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

House As Amended

Bill "An Act to Improve Maine's Jail Diversion Programs"
H.P. 191 L.D. 202
(C "A" H-829)

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

Senate As Amended

Bill "An Act to Amend the Laws Relating to Development Districts"

S.P. 725 L.D. 1966
(C "A" S-441)

Bill "An Act to Increase the Debt Limit of the Calais School District" (EMERGENCY)

S.P. 744 L.D. 2074
(C "A" S-443)

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

Sent down for concurrence.

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

COMMUNICATIONS

The Following Communication: S.C. 586

**THE SENATE OF MAINE
OFFICE OF THE PRESIDENT
3 STATE HOUSE STATION
AUGUSTA, MAINE 04333**

February 27, 2002

Pamela L. Cahill
Secretary of the Senate
3 State House Station
Augusta, Maine 04333-0003

Dear Secretary Cahill,

I am pleased to announce that today I am awarding the February "President's Cornerstone Award" to Mid-State Machine Products, Inc. in Winslow. Doug Sukeforth, company president and CEO, will accept the award at the company's Winslow factory in the presence of many of the company's 190 employees.

Mid-State Machines Products, Inc. was founded by Mr. Sukeforth over 30 years ago and takes an active interest in their local government and community. The company is a member of the Mid-Maine Chamber of Commerce and Maine Metal Products as well as the Society of Manufacturing Engineers. Mid-State Machine Foundation, which is run by employees, donates \$60,000 a year to local charities that have applied for money. Mid-State Machine is also a regular sponsor of the Winslow 4th of July celebration. Eighteen years ago Mr. Sukeforth and his wife, Rita, built Sukee Arena – an ice-skating rink and soccer arena in Winslow for the community's youth.

Mr. Sukeforth is an exemplary businessman and community person. He and his employees are a great example of what hard work and a sustained investment of determination and capital can accomplish. This award as a means of commending them for their contributions to the state of Maine. We are fortunate to have them here creating quality jobs and supporting the greater Winslow community.

Senator Beverly Daggett and Representative Zachary Matthews will be on hand when the award is presented. Mid-State Machine Products represents what is best about Maine people, their work ethic and their entrepreneurial spirit. I am pleased to honor them for their investment in Maine's economy, its people, and our future.

Sincerely yours,

S/Senator Richard A. Bennett
President of the Senate

READ and ORDERED PLACED ON FILE.

On motion by Senator **MARTIN** of Aroostook, **ADJOURNED**, to Thursday, February 28, 2002, at 10:00 in the morning.