

# MAINE STATE LEGISLATURE

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**Legislative Record**  
**House of Representatives**  
**One Hundred and Twenty-First Legislature**  
**State of Maine**

**Volume II**

**First Regular Session**

May 27, 2003 – June 14, 2003

**First Special Session**

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**Second Regular Session**

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**Second Special Session**

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Pages 777-1562

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE  
SECOND REGULAR SESSION  
12th Legislative Day  
Friday, January 30, 2004

The House met according to adjournment and was called to order by the Speaker.

Prayer by Reverend Richard A. Bamforth, Augusta (retired).

Pledge of Allegiance.

The Journal of yesterday was read and approved.

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**SENATE PAPERS**

**Non-Concurrent Matter**

Joint Study Order Directing the Joint Standing Committee on Education and Cultural Affairs To Review the Feasibility of Establishing Blueprints for State-financed School Construction (H.P. 1357)

**READ and PASSED AS AMENDED BY HOUSE AMENDMENT "A" (H-638)** in the House on January 27, 2004.

Came from the Senate **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

On motion of Representative CUMMINGS of Portland, the House voted to **ADHERE**.

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By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

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**COMMUNICATIONS**

The Following Communication: (H.C. 304)

**STATE OF MAINE**

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

January 27, 2004

Honorable Beverly C. Daggett, President of the Senate

Honorable Patrick Colwell, Speaker of the House

121st Maine Legislature

State House

Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

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

L.D. 230 An Act Concerning Restructuring of School Districts

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

Sincerely,

S/Sen. Neria R. Douglass

Senate Chair

S/Rep. Glenn Cummings

House Chair

**READ and ORDERED PLACED ON FILE.**

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The Following Communication: (H.C. 305)

**STATE OF MAINE**

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE COMMITTEE ON HEALTH AND HUMAN SERVICES**

January 27, 2004

Honorable Beverly C. Daggett, President of the Senate

Honorable Patrick Colwell, Speaker of the House

121st Maine Legislature

State House

Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

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

L.D. 713 An Act to Support Health Care Safety Net Programs

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

Sincerely,

S/Sen. Michael Brennan

Senate Chair

S/Rep. Thomas J. Kane

House Chair

**READ and ORDERED PLACED ON FILE.**

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The Following Communication: (H.C. 306)

**STATE OF MAINE**

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

January 27, 2004

Honorable Beverly C. Daggett, President of the Senate

Honorable Patrick Colwell, Speaker of the House

121st Maine Legislature

State House

Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

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

L.D. 1027 Resolve, Directing the Commission on Governmental Ethics and Election Practices To Adopt Rules Regarding Certain Election Practices

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

Sincerely,

S/Sen. Kenneth T. Gagnon

Senate Chair

S/Rep. Joseph E. Clark

House Chair

**READ and ORDERED PLACED ON FILE.**

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**PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE**

Bill "An Act To Provide for the 2004 and 2005 Allocations of the State Ceiling on Private Activity Bonds" (EMERGENCY)

(H.P. 1364) (L.D. 1838)

Sponsored by Representative SULLIVAN of Biddeford. (GOVERNOR'S BILL)

Cosponsored by Senator BROMLEY of Cumberland and Representatives: BERUBE of Lisbon, DUPREY of Medway, JACOBSEN of Waterboro, PELLON of Machias, RECTOR of Thomaston, ROGERS of Brewer, SMITH of Monmouth, Senator: SHOREY of Washington.

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

**REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed.

Sent for concurrence.

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Bill "An Act To Amend the Laws Governing Purchase of Military Time Served under the Maine State Retirement System" (H.P. 1360) (L.D. 1836)

Sponsored by Representative DUPREY of Medway.  
Cosponsored by Senator STANLEY of Penobscot and Representatives: BREault of Buxton, COLLINS of Wells, GOODWIN of Pembroke, LANDRY of Sanford, LUNDEEN of Mars Hill, PEAVEY-HASKELL of Greenbush, Senators: MARTIN of Aroostook, MAYO of Sagadahoc.

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

Committee on **LABOR** suggested and ordered printed.

**REFERRED** to the Committee on **LABOR** and ordered printed.

Sent for concurrence.

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**Pursuant to Resolve**

**Joint Standing Committee on Natural Resources**

Representative KOFFMAN for the **Joint Standing Committee on Natural Resources** pursuant to Resolve 2003, chapter 14 asks leave to report that the accompanying Bill "An Act Relating to the Consideration of the Cumulative Effects on Protected Natural Resources"

(H.P. 1361) (L.D. 1837)

Be **REFERRED** to the Committee on **NATURAL RESOURCES** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218.

Sent for concurrence.

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**REPORTS OF COMMITTEE**

**Change of Committee**

Representative DUNLAP from the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act Regarding Wildlife Habitat Conservation"

(H.P. 604) (L.D. 827)

Reporting that it be **REFERRED** to the Committee on **TAXATION**.

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

On motion of Representative DUNLAP of Old Town, the Bill was **REFERRED** to the Committee on **TAXATION** and the Committee on **INLAND FISHERIES AND WILDLIFE**, ordered printed and sent for concurrence.

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**Divided Report**

Majority Report of the Committee on **TRANSPORTATION** reporting **Refer to the Committee on Judiciary** on Bill "An Act To Increase Traffic Fines and Apportion a Part of the Increase to the Issuing Jurisdiction"

(H.P. 788) (L.D. 1070)

Signed:

Senators:

DAMON of Hancock

SAVAGE of Knox

Representatives:

USHER of Westbrook

PARADIS of Frenchville

MARRACHÉ of Waterville  
SAMPSON of Auburn  
McKENNEY of Cumberland  
COLLINS of Wells  
McNEIL of Rockland  
JODREY of Bethel  
BROWNE of Vassalboro

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-646)** on same Bill.

Signed:

Representative:

MARLEY of Portland

**READ.**

On motion of Representative PARADIS of Frenchville, the Majority **Refer to the Committee on Judiciary** Report was **ACCEPTED** and sent for concurrence.

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Majority Report of the Committee on **UTILITIES AND ENERGY** reporting **Ought Not to Pass** on Bill "An Act To Require the Owner or Operator of a Casino To Improve or Replace Utilities and Infrastructure in the Vicinity of the Casino" (H.P. 876) (L.D. 1201)

Signed:

Senators:

HALL of Lincoln

BROMLEY of Cumberland

Representatives:

RINES of Wiscasset

FLETCHER of Winslow

LUNDEEN of Mars Hill

MOODY of Manchester

BLISS of South Portland

BERRY of Belmont

GOODWIN of Pembroke

RICHARDSON of Skowhegan

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-645)** on same Bill.

Signed:

Representatives:

ADAMS of Portland

CRESSEY of Baldwin

**READ.**

Representative MOODY of Manchester moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

The **SPEAKER**: The Chair recognizes the Representative from Wells, Representative Collins.

Representative **COLLINS**: Mr. Speaker, Ladies and Gentlemen of the House. This is my bill. It didn't fair very well in committee, however, I do want to speak to it and inform you of the reasons why this was brought to the Legislature last session.

We all remember the very controversial casino referendum in November. At that time the Town of Sanford was going to be the host community for the casino. The neighboring town east of Sanford is my community, the Town of Wells. We had concerns of the impact that would have on our community if, in fact, a casino was located in Sanford. That was the reason why we brought this legislation forward. It was carried over until the outcome of the vote in November. It went before the Committee on Utilities and Energy this session. We added some additional language. We worked with the committee and tried to find some common ground. As you can see from the outcome of the vote, we didn't see a whole lot of common ground.

I would like to add that I don't think the casino issue is over. It feels as though in my own mind's eye and with the Chief Executive that they will be back. I think they will be back at a later date. I think at that time the people representing the citizens of Maine should be prepared, there should be laws and regulations put in place to regulate gambling casinos. This is part of the process of the regulations. If you think it can't happen to you, think again. If a casino thinks about having a host community next to your town, you will be impacted.

The utility costs for making major improvements and utilities, adding personnel to fire departments, police departments will be on the shoulders of your taxpayers locally. I just don't feel that neighboring communities, even host communities should absorb all the burden of making these major improvement to utilities, police and fire, to accommodate a casino. I think they should be responsible for the improvements. It is a huge impact on any community if you can imagine. That is the reason why I urge you to vote for the Minority Report and pass this and send it down to the other chamber. It is getting our ducks in a row. It is getting prepared for the next onslaught of groups coming in from wherever, Las Vegas, Atlantic City, New Jersey or wherever. They are going to come in and attempt to build a casino here in Maine. Let's be prepared this time. Let's not sit idly back and hope for the best. Let's put some legislation into law that will give protection to our communities here in Maine. Thank you.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Shields.

Representative SHIELDS: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative SHIELDS: Thank you Mr. Speaker. I am kind of an outsider in this casino business, but reading through the bill, it gives some responsibility and accountability to the casino for creating infrastructure problems. My question to those who were on this committee voting against this, is it because the casino issue was defeated or was it because you don't think the casinos are responsible for the problems that they are going to create in the infrastructure? If anybody could answer that.

The SPEAKER: The Representative from Auburn, Representative Shields has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Manchester, Representative Moody.

Representative MOODY: Mr. Speaker, Men and Women of the House. In answer to the good Representative's question, it was generally felt that the permitting process was sufficient. The state agencies and so forth were called into the process to pass on the traffic issues and also on sewer and water and power infrastructure issues. This would be a complicating bill to do that. Whether it is completely as thorough as it ought to be is something that we really can't answer. You asked if it were in reaction to the fact that the casino had already been defeated. We were very conscience not to make this a casino bill. What we were worried about as well was this same kind of procedure might be imposed on a General Motors Plant, for example, if that were ever to be the case.

Naturally all the state agencies and the impact on the infrastructure are very much a concern to our outlying communities. Basically we felt that this was a redundant piece of legislation.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Collins.

Representative COLLINS: Mr. Speaker, Ladies and Gentlemen of the House. The language clearly states casino. There is no mention of any other industry except the gambling

industry, construction of a gambling facility, a casino. It clearly states that. It has no hidden agenda, no ramifications in any kind of other industry. It clearly states casinos, gambling establishments. Mr. Speaker, I would like to request a roll call too.

Representative COLLINS of Wells REQUESTED a roll call on the motion to ACCEPT the Majority Ought Not to Pass Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Landry.

Representative LANDRY: Mr. Speaker, Ladies and Gentlemen of the House. This whole casino issue hit pretty close to home for me. During the process I noticed a very strange development within the surrounding communities of Sanford. Once it looked like there was a very good possibility that the casino may very well come into Sanford, everybody within a 20 mile radius suddenly thought about jumping on the bandwagon, when they realized that the casino would be advantageous to help support some of their infrastructure costs that were needed before the casino ever came up. These types of infrastructure costs could be taken care and would have been taken care of in the negotiating process. Should that casino have come to Sanford, I can guarantee you that the fathers in downtown Sanford would, in fact, sit down and ensure that the infrastructure costs that would be incurred in the construction of this facility would be incurred by the casino people. That would be covered in the negotiating process. If there were an infrastructure cost involving another community where the power or whatever had from or where the water may be affected by it, I'm sure, at that point it would have been brought to light and would have been handled. I think that any future casino that is suggested or voted in, should that happen; these types of costs are going to be covered in the negotiating phase. Any host community knows to do that. I, unfortunately disagree with the concept behind this bill. I see it as a way for surrounding communities to jump on the bandwagon and get a piece of the action, as they say. Thank you.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Twomey.

Representative TWOMEY: Mr. Speaker, Men and Women of the House. I signed onto this legislation because I really believed it was good. Coming from a community, Biddeford, where the leaders of my town were very much in favor of this. Contrary to what the townspeople wanted because we went to referendum and we beat it two to one. I am not so sure that the politics in Biddeford would have not had this in their contract. They were so eager to get something without thinking of what the people in the town wanted. I think this is a good insurance policy to protect those towns to make sure that if this does come to your area that you will have something to protect you. I will be supporting this. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 286

YEA - Ash, Barstow, Berry, Blanchette, Bowles, Brannigan, Bruno, Bull, Canavan, Clark, Craven, Cummings, Davis, Dudley, Dunlap, Duplessie, Duprey G, Earle, Faircloth, Fischer, Gagne-Friel, Gerzofsky, Goodwin, Greeley, Grose, Hutton, Jackson, Kaelin, Koffman, Landry, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, McCormick, McGlocklin, McGowan, McLaughlin, Mills S, Moody, Moore, Norbert, Norton, O'Brien L, Paradis, Patrick, Pellon, Percy, Perry J, Pineau, Pingree, Piotti, Rector,

Richardson E, Richardson J, Richardson M, Rines, Sampson, Simpson, Smith N, Snowe-Mello, Sukeforth, Suslovic, Thomas, Trahan, Watson, Woodbury, Wotton, Mr. Speaker.

**NAY** - Adams, Andrews, Annis, Austin, Bennett, Bierman, Bowen, Breault, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cowger, Cressey, Crosthwaite, Curley, Duprey B, Eder, Fletcher, Glynn, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Joy, Kane, Ledwin, Lemoine, Lewin, Maietta, McKenney, McNeil, Millett, Mills J, Murphy, Muse, O'Brien J, O'Neil, Peavey-Haskell, Rogers, Rosen, Saviello, Sherman, Shields, Stone, Sykes, Thompson, Tobin D, Tobin J, Treadwell, Twomey, Walcott, Wheeler.

**ABSENT** - Berube, Bliss, Bunker, Daigle, Dugay, Finch, Hatch, Jennings, Ketterer, Marraché, McKee, Nutting, Perry A, Smith W, Sullivan, Tardy, Usher, Vaughan, Young.

Yes, 71; No, 60; Absent, 19; Excused, 0.

71 having voted in the affirmative and 60 voted in the negative, with 19 being absent, and accordingly the Majority Ought Not to Pass Report was **ACCEPTED** and sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

**CONSENT CALENDAR**

**First Day**

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(H.P. 995) (L.D. 1353) Bill "An Act To Ensure Women's Health Care Coverage for All Maine Women" (EMERGENCY) Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-648)**

(H.P. 1266) (L.D. 1744) Bill "An Act To Amend the Laws Governing the Display of Fireworks and Indoor Pyrotechnics" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-644)**

(H.P. 1280) (L.D. 1758) Bill "An Act To Correct Certain Errors and Inconsistencies in Marine Resources Laws" Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-647)**

There being no objections, the above items were ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

**CONSENT CALENDAR**

**Second Day**

In accordance with House Rule 519, the following item appeared on the Consent Calendar for the Second Day:

(H.P. 1278) (L.D. 1756) Bill "An Act To Amend the Uniform Federal Lien Registration Act"

No objections having been noted at the end of the Second Legislative Day, the House Paper was **PASSED TO BE ENGROSSED** and sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

The House recessed until the Sound of the Bell.

(After Recess)

The House was called to order by the Speaker.

The following items were taken up out of order by unanimous consent:

**SENATE PAPERS**

**Non-Concurrent Matter**

Bill "An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary for the Proper Operations of State Government for the Fiscal Years Ending June 30, 2004 and June 30, 2005" (EMERGENCY)

(H.P. 1351) (L.D. 1828)

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-642) AS AMENDED BY HOUSE AMENDMENTS "I" (H-658) AND "L" (H-661)** thereto in the House on January 29, 2004.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-642) AS AMENDED BY SENATE AMENDMENT "F" (S-371) AND HOUSE AMENDMENTS "I" (H-658) AND "L" (H-661)** thereto in **NON-CONCURRENCE**.

Representative **RICHARDSON** of Brunswick moved that the House **RECEDE AND CONCUR**.

The **SPEAKER**: The Chair recognizes the Representative from Raymond, Representative **Bruno**.

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. I think we all know this is a foregone conclusion and we are heading to a majority budget. As I said last night, I think that is a bad day for the State of Maine. I think people are going to suffer for it. There are a couple of things that I want to say. First of all, I appreciate the members from the other side of the aisle still coming to me and talking to me and not treating my like a pariah. I think we have disagreed on this budget, but we need to move on so let's move on. That is one lesson that I hope many of us take away from these kinds of budgets. It is okay to disagree. This is a policy disagreement, don't take it personally.

I noticed there is a new amendment on from the Senator from Penobscot, which finally balances your budget as I pointed out last night. Your budget wasn't balanced. Senate Amendment "F" finally balances your budget. Thank you for doing that. Part P, I didn't see any correction so I guess it wasn't a typographical error that it will cost you \$800,000 after a year to pay back that health insurance fund, that is if you ever pay it back. There is just one section in your budget that I want to read. If you go to Page 41 in your amendment and you look at lines 22 to 28, I have just never seen this in a budget document before. It says, "Any tuition increase must be attributed to the implementation of collective bargaining, increased health insurance costs and any other measures that have created increased costs to the University of Maine System." What does that mean? Does it mean that it is okay to de-appropriate \$6 million, but don't blame us if you have to raise tuition? That's how I read it. I have never seen it put into statute, the budget bill is statute. What are you afraid of? What are you afraid to admit? That they are going to have to increase tuition because of your actions today. That is what you ought to admit. You ought to be up front about it. Don't try and hide behind language.

Those are my final thoughts on this budget. It is unfortunate that we have to get to a majority budget, but if that is the way it is, then that is the way it is. When it all falls apart, don't blame us. Thank you Mr. Speaker.

Representative BRUNO of Raymond **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is to Recede and Concur. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 287**

**YEA** - Adams, Ash, Barstow, Bennett, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Grose, Hutton, Kane, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, McGlocklin, McGowan, McKee, Mills J, Moody, Norbert, Norton, O'Brien L, Paradis, Pellon, Percy, Perry J, Pineau, Pingree, Piotti, Richardson J, Rines, Sampson, Saviello, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

**NAY** - Andrews, Annis, Austin, Berry, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Davis, Duprey B, Fletcher, Glynn, Goodwin, Greeley, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Ledwin, Lewin, McCormick, McKenney, McNeil, Millett, Murphy, Muse, O'Brien J, Peavey-Haskell, Rector, Richardson E, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tobin D, Tobin J, Trahan, Treadwell, Twomey.

**ABSENT** - Berube, Daigle, Hatch, Jackson, Jennings, Landry, Maietta, McLaughlin, Mills S, Moore, Nutting, O'Neil, Patrick, Perry A, Richardson M, Tardy, Usher, Vaughan, Young.

Yes, 72; No, 59; Absent, 19; Excused, 0.

72 having voted in the affirmative and 59 voted in the negative, with 19 being absent, and accordingly the House voted to **RECEDE AND CONCUR. ORDERED SENT FORTHWITH.**

**PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE**

Resolve, To Provide for Legislative Review of Certain Agency Rules and Submission of Certain Authorized Reports and Legislation (EMERGENCY)

(H.P. 1365) (L.D. 1839)

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

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

Under suspension of the rules, the Resolve was given its **FIRST READING WITHOUT REFERENCE** to a committee.

Under further suspension of the rules, the Resolve was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules, the Resolve was **PASSED TO BE ENGROSSED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

**PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE**

Resolve, Concerning Payments to Legislators during Special Session (EMERGENCY)

(H.P. 1366) (L.D. 1840)

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

Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** suggested and ordered printed.

Under suspension of the rules, the Resolve was given its **FIRST READING WITHOUT REFERENCE** to a committee.

Under further suspension of the rules, the Resolve was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules, the Resolve was **PASSED TO BE ENGROSSED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

The **SPEAKER**: The Chair recognizes the Representative from Cape Elizabeth, Representative McLaughlin who wishes to address the House on the record.

Representative **MCLAUGHLIN**: Mr. Speaker, I did miss the vote on LD 1828. If I had been present in the chamber, I would have voted yea. Thank you Mr. Speaker.

**ENACTORS Acts**

An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary for the Proper Operations of State Government for the Fiscal Years Ending June 30, 2004 and June 30, 2005

(H.P. 1351) (L.D. 1828)

(H. "I" H-658, H. "L" H-661 and S. "F" S-371 to C. "A" H-642)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative BOWLES of Sanford, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. I thought you might be, despite the short turnaround you had, for those of us who are commuters, you might be interested in conversation. It might have been one of the first with a local constituent about what happened here last night and what will happen here today. I had gone into a local convenience store to pick up the papers this morning and a Kennebunker had asked me, "What the heck is going on up there?" I knew this was more than just a casual make conversation comment on his part. He had a dog in that fight or concern because he had been in the local SAD school board meeting. That is Kennebunk and Kennebunkport on Monday night and he had heard the bad news of what a decrease of one half of 1 percent of state aid was going to do to the K-12 programs and also to the property taxpayers in both those towns. I might add that indirectly he was also talking about your programs and your towns and their property taxes over there on the other side of the aisle. He told me, "Why don't you forget about the statistics, forget about the budget jargon and

the partisan spin. Please explain to me what this continuing mess and budget after budget is all about." I told him that Maine had a pretty good deal starting about five years ago. For every dollar we spent on Medicaid, the federal government would give us \$2. I said I have heard it referred to up here on the floor as free money, magic money, money falling out of the sky. Each year to get that two to one match, we expanded eligibility and in a rush for that \$2 match, we crossed over the line of fiscal responsibility. Now, at this point with this vote, that great \$2 match is still out there, but we can no longer raise our share. We can no longer raise that \$1. That is what the last two or three budgets have been all about. We can no longer raise the \$1 share. In that rush to get that magic money, that free money, we have hurt our K-12 students, not just today and not last night, but for the last two to three days. We have made a college education more expensive and further out of reach for Maine people. We have put our hospitals at risk and we actually will probably be on a watch now in terms of seeing what hospital will be the first to die here in Maine.

We have driven up health insurance costs and we have treated our health care professionals and our residential care facilities as if they are ATM cash machines for Maine state government. He told me that he gets it. Augusta is spending beyond its means. They are spending money up there they don't have.

I will leave you with this parting comment as I got into the car to get up here. Don't they know they are driving this great state and its economy into the ground?

The SPEAKER: A roll call has been ordered. The pending question before the House is Enactment. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 288**

YEA - Adams, Ash, Barstow, Bennett, Blanchette, Bliss, Brannigan, Breault, Bull, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Grose, Hutton, Kane, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, McGlocklin, McGowan, McKee, McLaughlin, Mills J, Moody, Norbert, Norton, O'Brien L, Paradis, Pellon, Percy, Perry J, Pineau, Pingree, Piotti, Richardson J, Rines, Sampson, Saviello, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Andrews, Annis, Austin, Berry, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Davis, Fletcher, Glynn, Goodwin, Greeley, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Ledwin, Lewin, McCormick, McKenney, McNeil, Millett, Murphy, Muse, O'Brien J, Rector, Richardson E, Rogers, Rosen, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Twomey.

ABSENT - Berube, Bunker, Daigle, Duprey B, Hatch, Jackson, Jennings, Landry, Maietta, Mills S, Moore, Nutting, O'Neil, Patrick, Peavey-Haskell, Perry A, Richardson M, Sherman, Usher, Vaughan, Young.

Yes, 72; No, 57; Absent, 21; Excused, 0.

72 having voted in the affirmative and 57 voted in the negative, with 21 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

**SENATE PAPERS**

The following Joint Order: (S.P. 682)

ORDERED, the House concurring, that all matters in the possession of the Legislature, including working papers and drafts in the possession of nonpartisan staff offices and gubernatorial nominations, at the time of adjournment of the Second Regular Session of the 121st Legislature be held over to the next special session of the 121st Legislature; and be it further

ORDERED, that any public hearing, work session or other meeting to conduct the business of the Legislature that is scheduled at the time this order is passed is hereby authorized to occur.

Came from the Senate, **READ** and **PASSED**.

**READ** and **PASSED** in concurrence.

**ENACTORS**

**Emergency Measure**

Resolve, To Provide for Legislative Review of Certain Agency Rules and Submission of Certain Authorized Reports and Legislation

(H.P. 1365) (L.D. 1839)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 115 voted in favor of the same and 6 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

The House recessed until the Sound of the Bell.

(After Recess)

The House was called to order by the Speaker.

The following items were taken up out of order by unanimous consent:

**SENATE PAPERS**

**Non-Concurrent Matter**

Resolve, To Provide for Legislative Review of Certain Agency Rules and Submission of Certain Authorized Reports and Legislation (EMERGENCY)

(H.P. 1365) (L.D. 1839)

**FINALLY PASSED** in the House on January 30, 2004.

Came from the Senate **FAILING** of **FINAL PASSAGE** in **NON-CONCURRENCE**.

On motion of Representative RICHARDSON of Brunswick, the House voted to **ADHERE**.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.



**ENACTORS  
Emergency Measure**

Resolve, Concerning Payments to Legislators during Special Session

(H.P. 1366) (L.D. 1840)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

Representative RICHARDSON of Brunswick **REQUESTED** a roll call on **FINAL PASSAGE**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Final Passage. All those in favor will vote yes, those opposed will vote no.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken.

**ROLL CALL NO. 289**

**YEA** - Adams, Ash, Barstow, Bennett, Blanchette, Bliss, Bowen, Brannigan, Breault, Bull, Bunker, Canavan, Carr, Clark, Clough, Cowger, Craven, Cummings, Curley, Davis, Dudley, Dugay, Duplessie, Duprey G, Earle, Eder, Finch, Fischer, Gagne-Friel, Gerzofsky, Glynn, Grose, Hutton, Jennings, Kane, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, McGlocklin, McGowan, McKee, McLaughlin, Mills J, Moody, Muse, Norbert, Norton, O'Brien L, O'Neil, Paradis, Pellon, Percy, Perry J, Pineau, Pingree, Piotti, Richardson E, Richardson J, Rines, Sampson, Saviello, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Tobin J, Twomey, Walcott, Watson, Woodbury, Wotton, Mr. Speaker.

**NAY** - Andrews, Annis, Austin, Berry, Bierman, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Churchill E, Churchill J, Collins, Courtney, Crosthwaite, Duprey B, Fletcher, Goodwin, Greeley, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Ledwin, Lewin, McCormick, McKenney, McNeil, Millett, Murphy, O'Brien J, Rogers, Rosen, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Tobin D, Trahan, Treadwell.

**ABSENT** - Berube, Cressey, Daigle, Dunlap, Faircloth, Hatch, Jackson, Landry, Maietta, Mills S, Moore, Nutting, Patrick, Peavey-Haskell, Perry A, Rector, Richardson M, Sherman, Usher, Vaughan, Wheeler, Young.

Yes, 82; No, 46; Absent, 22; Excused, 0.

82 having voted in the affirmative and 46 voted in the negative, with 22 being absent, and accordingly and accordingly the Resolve **FAILED FINAL PASSAGE** and was sent to the Senate.

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By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

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**SENATE PAPERS**

The following Joint Order: (S.P. 683)

**ORDERED**, the House concurring, that pursuant to the provisions of Article IV, Part Third, Section 16 of the Maine Constitution, and in order to conform with Article IV, Part Third, Section 7 of the Maine Constitution which prohibits passing any law which would result in increasing compensation during the existence of the Legislature which enacted it and;

**WHEREAS**, legislative compensation through April 21, 2004, is already provided for by statute, as compensation for the second regular session, and any compensation during the same

period for a special session would in the opinion of the legislature constitute an increase in legislative compensation specifically prohibited by the Maine Constitution;

Now therefore be it ordered that there shall be no increase in compensation for service in any special session of the 121st legislature held prior to April 22, 2004, above the pay for the second regular session which by statute is to adjourn by the third Wednesday in April.

Came from the Senate, **READ** and **PASSED**.

**READ.**

The **SPEAKER**: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative **BRUNO**: Mr. Speaker, Ladies and Gentlemen of the House. Two and a half hours ago I had a meeting with the Chief Executive and he talked to me about working together and putting things behind us and now we have this maneuver here to use the Constitution to get around the law. Isn't that clever. Aren't you really good? You want to work together. You want to jam a majority budget down our throat, which you already did and now use the Constitution to protect yourselves and say that we are not in Special Session. My oh my, I guess the words were pretty hollow two and a half hours ago.

The way I read the Constitution it says that when you are in Special Session it is not the same as being in the regular session. I may be wrong. I am not an attorney, but what a clever maneuver. The two party system doesn't mean anything. It means if you are in the minority and you have a different opinion than I do, then we are just going to cram it down your throat. We are going to adjourn. We are going to do everything we can because we have the power to do it. Isn't that nice?

I am not voting for this Joint Order because I think it breaks the Constitution and the two-party system in this state. Now, you may not agree with me, but go ahead and do this. The only way to challenge this now is to go to court and have the courts decide on the constitutionality of this order. Maybe we will do that and maybe we won't, but the fact is just two and a half hours ago I was told that we were going to work together to move forward. Mr. Chief Executive, I hope you are listening, because I don't think so.

The **SPEAKER**: The Chair recognizes the Representative from Augusta, Representative O'Brien.

Representative **O'BRIEN**: Mr. Speaker, Ladies and Gentlemen of the House. I have been fairly quiet this session, but when I saw this Joint Order in the other body, I have to tell you that I harken back to my first session in the 118<sup>th</sup> when this was done on another issue. Set aside the pay issue that we are talking about right now. That isn't the issue. I am really, really angry. What I am angry about is that we are breaking the integrity of this institution. This clearly states that this is constitutionally two-thirds, because whatever party, I just spoke to the leaders in the other body and I said, please tell me that if we were in the majority this would not happen. If we were in the majority and it happened, I would feel the exact same way. This is breaking a promise. This is breaking the tradition, the integrity of this institution. You can chuckle and you can feel that we were smarter. It is not smarter. It is not about the pay. It is about the good will and the friends that we have made across the aisle. The budget didn't poison it. I know that we will get back in committee and we will be okay. This is poisoning it. I implore you to set this aside that this is about a pay raise, extra pay. Look at what you are doing for the integrity and tradition and good will that we have enjoyed thus far and hope to continue. Thank you.

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At this point, a message came from the Senate borne by Senator of Kennebec of that Body informing the House that the Senate was ready to adjourn without day.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Richardson.

Representative **RICHARDSON**: Mr. Speaker, Ladies and Gentlemen of the House. A majority budget was passed last night in this House. Each side has had their philosophical reasons for either voting for or against the supplemental budget. I know enough has been said about this matter on the House floor. It is not why I rise here just now.

I want to talk just for a minute about what is upsetting many of the members as I understand it, on the other side of the aisle. Understand from where we sit that we have an honest philosophical difference of opinion. As I read the Constitution, it indicates that we are not permitted to provide ourselves with a pay raise during the session in which we serve. As a result, as I read it, from a practical standpoint, that is just what we are doing. We are providing ourselves with more money than we otherwise signed on for. We are providing ourselves with more money than when we told the people that we would serve that sent us here. For me, it is an honest philosophical difference. I know that is what brought us to a majority budget. I wish that it were different and I wish in the future that we work together.

We have so many important issues, I think, to talk about and I think to work on for the best interests of the Maine people. We face a supplemental budget in several weeks that we have to deal with for fiscal year '05. We have the issue of tax relief or tax reform that we need to work on. We have the issue of bonds, if that is something that is still possible. I have a good relationship and a lot of respect for everybody in this institution. Tonight when we had to stay here when we wanted to go home and be with our family and friends, do things that we wanted to do and had planned for. We have somebody in this institution right now who has had their 40<sup>th</sup> Wedding Anniversary. He is sitting in the back aisle and he desperately wanted to go home. He feels a great sense of duty, a tremendous sense of duty to Maine people as we all do. Whether you are a Democrat or an Independent or a Green or a Republican in this institution, you have my highest respect and admiration for all that you do and all that you give to this institution. That means that sometimes we do differ and it means that sometimes that we will be mad at each other and we will be angry and I am glad it is Friday night and I am glad I am going home. I hope you get home safely too so that we can have Saturday and Sunday and the Super Bowl and Monday to come back and clear our heads during that time. Come on back, I invite you. I encourage you. I beg you to come back and let's work together. I want to make it happen. You might doubt me now, but I am telling you honestly, the people who know me well, know I want to work with people. I try to be as earnest as I can when doing so. To my good friends in the corner, I know you are bitter. I can understand a little bit about why. I am just asking that you think about it this weekend. Let's come back and finish things up. Let's do it together. Thank you.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Bowles.

Representative **BOWLES**: Mr. Speaker, Ladies and Gentlemen of the House and to my friend in the other corner, I am not bitter. I am, however, confused. Mr. Speaker, I would like to quote from Maine Revised Statutes Title 3, Chapter One, Subsection Two under salary. It states, "In addition to the salary

paid for the First and Second Regular Sessions of the Legislature when a Special compensated \$100 for every day's attendance, expenses and mileage pursuant to this section." Since this is part of Maine statute and a Joint Order cannot supercede Maine statute, I would suggest that if members of this body have an issue and believe that Maine statute is in conflict with the Maine Constitution, then that is a case that they should bring before the Attorney General or before the law courts. A Joint Order cannot supercede this Maine statute, which is very clear in its intent.

Representative **BOWLES** of Sanford **REQUESTED** a roll call on **PASSAGE**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: Under Mason's, Page 15, Section 4 under the rules of governing procedure, "The rules of legislative procedure are derived from several sources and take precedence in the order listed below. The principle sources are as follows in order of precedence. A, constitutional provisions and judicial decisions. B, adopted rules. C, custom usage and precedence. D, statutory provisions. E, adopted parliamentary law. F, parliamentary law.

The Chair recognizes the Representative from Waldoboro, Representative Trahan.

Representative **TRAHAN**: Mr. Speaker, May I pose a question to the Chair?

The SPEAKER: The Representative may pose his question.

Representative **TRAHAN**: Mr. Speaker, the way that I read this order, according to the language of this it states that by statute is to adjourn by the third Wednesday in April. I ask you, because that word by is in there, the way that I read this language, I would interpret that to be any day prior to April 22nd could be the adjournment date. I don't think it really makes any difference if it is January 1st or April 22nd, because that word by is in there, it would be logical to me that we are adjourned and would be in Special Session.

The SPEAKER: The Chair would answer the question of the Representative. The order is drafted that way because the legislative pay is derived through the statutory adjournment date, the regular session pay of April 21, 2004. Special Session pay would be compensated after the statutory adjournment date of April 21st.

The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative **MURPHY**: Mr. Speaker, May I pose a question to the Chair?

The SPEAKER: The Representative may pose his question.

Representative **MURPHY**: If I understand correctly your ruling or your interpretation or justification in response to the Representative from Sanford, you are citing Masons as overriding Maine statute. Is that correct?

The SPEAKER: I am citing that the rules of the Legislature by the very nature of our work here do have to have precedence over statute since this institution makes the statutes. We are not overriding the statute. It is clear in our rules, in Masons, the rules that this institution follows that in order of preference we are bound by the Constitution by our rules, by statutes, the Constitution, rules, statute and so on.

The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative **MURPHY**: Mr. Speaker, May I pose a question to the Chair?

The SPEAKER: The Representative may pose his question.

Representative **MURPHY**: Thank you Mr. Speaker. Page 15, Section 21, Paragraph 2 of Masons, "A legislative body cannot make a rule which evades or avoids the effect of a rule

prescribed by the Constitution or statute governing it and cannot do so by indirection, which it cannot do directly." These are the rules we are following in terms of the Speaker's interpretation and take a contrary position to the Speaker when it comes to dealing with statute.

The SPEAKER: Would the Representative please rephrase his point of order?

Representative MURPHY: Thank you Mr. Speaker. I would ask for your interpretation of Subsection 2 and Section 21, page 15 in Masons, which appears to indicate that your justification for overriding Maine statute is prohibited in this section.

Representative MURPHY of Kennebunk asked the Chair to RULE if this Joint Order was in violation of Mason's Manual (1989), Section 21, Paragraph 2.

The SPEAKER: The Chair is prepared to rule and once again would refer legislators to Masons to begin with. Section 4, sources of rules of procedure if found on Page 14 and 15. The confusion we had was that the Representative from Kennebunk was citing an outdated Masons. The manual we use is this one, the rules that this Legislature has adopted. The Chair would cite that the rules of procedure passed by one Legislature or statutory provisions governing the legislative process are not binding on subsequent Legislatures. Section 2, rules of legislative procedure are derived from several sources and take precedence in the order listed below in order of preference. The principle sources are as follows. First, the Constitutional provisions and judicial decisions. Second, adopted rules. Third, custom usage and precedent. Fourth, statutory provisions. Fifth, the adopted parliamentary authority. Sixth, parliamentary law.

The Chair has a number of examples of case law that are backing up the provisions of the Constitution that we are citing here in our Joint Order to reduce the compensation for this Legislature.

I will cite an August 10, 1989 opinion of the Attorney General of the State of Maine at that time, Jim Tierney. "It is a fundamental principle of constitutional law in Maine, as well as elsewhere, that one Legislature by its action cannot bind future Legislatures." It cites Edgerly vs. Honeywell Information Services Incorporated. Maine State Housing Authority vs. Depositors Trust Company. All fodder for attorneys, but not for this Chair. The case law is there. The Chair would also cite April 3, 1996 document presented to then Speaker Dan Gwadosky signed by the Chief Justice at that time, Daniel Wathan. The question propounded by the House of Representatives in a communication as I said was dated March 25, 1996. It was answered April 3, 1996 for those who are taking notes. It cites, "Question one asks if initiated bill six become law would Section 2 of the bill violate the Constitutional principal that one Legislature may not bind future Legislatures as noted by the Attorney General in his brief to the justices? The question really asks if this bill becomes law and subsequent Legislatures do not follow it, will the law be enforceable by the courts? The answer to this question is clearly in the negative. This bill, if enacted, will be on equal footing with every other law passed by the Legislature, subsequent sessions of the Legislature may choose to follow it or they may choose to repeal it either expressly or by implication, see Manigo vs. Springs, 1999, US 473, 487, 1905, a bill requiring the Legislature to give direct notice to all invested parties and to publish the notice in a major newspaper prior to the granting of a private right or privilege by special bill could be repealed or amended or disregarded by the Legislature and was not binding upon any subsequent Legislature cited by Sierra Club vs. Felkey. The courts cannot set aside legislation because it is inconsistent with prior legislation cited also in Peterson vs. United States Department of Interior.

The fundamental principle that Congress always has the power to amend, repeal or ignore legislation passed by earlier Congresses. To read this statute as binding upon future Legislatures is to read it as an attempt to amend the Constitution of the State of Maine through improper means. Such a bill would not be enforced by the courts against future Legislatures.

The Chair has another opinion to cite. It is from 1953. Article 4, Part 3, Subsection 7, legislative expenses can be provided for by legislative order and are not subject to review by court and do not require consent of the Executive Branch of government since they are a matter for determination by the Legislature with respect to its own functioning as a Legislature. That was an opinion of the Justices of the Supreme Judicial Court of the State of Maine in 1953.

Subsequently, the Chair RULED in the negative.

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative BRUNO: Mr. Speaker, May I pose a question to the Chair?

The SPEAKER: The Representative may pose his question.

Representative BRUNO: Thank you Mr. Speaker. What is the precedent of the 118th Legislature?

The SPEAKER: The Chair would respond as the Representative well knows, I have read off the orders of precedent by which any Legislature is bound. The Constitution takes preference. Our Joint Order merely interprets and according to case law rightly so the Constitution of the State of Maine. Precedent is well below that in order of what binds us.

The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative BRUNO: Mr. Speaker, May I pose a question to the Chair?

The SPEAKER: The Representative may pose his question.

Representative BRUNO: Thank you Mr. Speaker. I guess I will need to ask that question a little more directly. In the 118th Legislature when we adjourned prematurely, did we receive the Special Session pay going forward in 1997, March 26 and 27?

The SPEAKER: The Chair would advise the Representative to research that question. Perhaps he already has the answer. Is this a rhetorical question?

The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative BRUNO: Mr. Speaker, May I pose a question to the Chair?

The SPEAKER: The Representative may pose his question.

Representative BRUNO: Thank you Mr. Speaker. No, it was not a rhetorical question. I am talking about precedence. You have mentioned precedence many times in your ruling. If I remember, I think we each collected Special Session pay at that time even though we adjourned. Mr. Speaker, if I may, under Mason's, I hope I have the right edition here, Section 781, paragraph 5, "A legislative session is the period of time between the initial convening and the adjournment sine die." It is right in Masons. That is the time. If we adjourn sine die, we are not in the same legislative session.

The SPEAKER: The Chair would answer in the affirmative.

The Chair recognizes the Representative from Rockport, Representative Bowen.

Representative BOWEN: Mr. Speaker, May I pose a question to the Chair?

The SPEAKER: The Representative may pose his question.

Representative BOWEN: Thank you Mr. Speaker. I am using the Constitution since we have already established that that is the highest. What this says in Section 7, that you mentioned in this piece we are working on here, "Senators and

Representatives shall receive such compensation as shall be established by law, but no law increasing the compensation shall take effect during the existing Legislature. I need somebody to explain to me how we are increasing our compensation. The law stipulates that we receive certain compensation for the session and a certain compensation for the Second Session. What we voted on earlier was to not accept that compensation for the Second Session. We didn't vote to increase our compensation. If we had voted ourselves \$105 a day for the Special Session, that would be increasing our compensation. The law says that we shall receive such compensation as is established by law. The law establishes that we shall receive the compensation of the session and special session. I don't think we have changed that. We didn't increase our compensation. We only tried and we are choosing not to accept that compensation. We weren't increasing the compensation any. How are we increasing our compensation by doing what we are doing?

The SPEAKER: The Chair would respond that the Representative has his interpretation of the Constitution. The Supreme Judicial Court of the State of Maine has interpreted the Constitution differently and is the final arbiter of what is constitutional and what is not here in the State of Maine.

The Chair would note that if this Legislature were to be in Special Session for 50 days, it would cost over \$900,000 additional funding to pay that. It does not change the ruling of the Chair, which is that the Constitution is clear, at least to the Chair and the Chair makes the ruling that this Order is before us properly.

The Chair recognizes the Representative from Rockport, Representative Bowen.

Representative **BOWEN**: Mr. Speaker, Ladies and Gentlemen of the House. Obviously the Chair could make the ruling and that is the ruling. I want to direct my comments to the remainder of the House, in particular to the rank and file of the other side. There were a lot of times last session that I walked out of here frustrated. I think many of us did. Tired and aggravated with how things went. We had the summer off and we got to get out of each other's faces for a little bit and then we saw the next session beginning and I began to sort of get excited about it. I had established some close relationships with folks on the other side, friendships. I looked forward to seeing many of you again. I was facing this property tax issue in Rockport and so I threw out the idea of a bipartisan coastal caucus. I sent a letter out. I got all kinds of letters back and e-mails saying this is a great idea. Let's work bipartisanship. We have established these relationships. Let's see if we can really work together to get something done. I went to Bill Signing Day. I was one of the few Republicans there. It was an eye opening experience. I got to sit in with almost all Democrats, quite frankly, the rank and file that met and talked about some of their issues and their concerns.

The Chair reminded Representative BOWEN of Rockport to keep his debate germane to the pending question.

Representative **BOWEN**: Mr. Speaker, I am attempting to convince the body not to support this Resolution. I think that that is germane. My point is that I came in here very excited and ready to work. I got my eighth graders excited to come in here and watch us work. This was two weeks ago and now we have got this. We are sitting here and everybody is thumbing through books to try to look at case law. It is very, very disappointing. I have had disappointing days before, but this is the most disappointing. I would urge the body, you will have a vote here in a few minutes, we have heard that you want to work with us from the Majority Leader. We are going to watch the votes that all of you take and see whether you mean it. You understand how we are going to take this vote. If you are interested in working with

us, the only thing we can take is what we see when the lights go on. Many of you came to me yesterday after my amendment and said, you know, we really liked what you had to say, we agreed, but we just couldn't vote for it. I love that line. I just couldn't vote for it.

I am going to ask you to vote against this and to show by your vote that you really do want to move past this and get something done and not continue this division. Thank you Mr. Speaker.

The SPEAKER: A question was posed earlier to the Chair regarding payments to legislators during the Special Session of the 118th. I would cite LD 1678, Chapter 8 and also Chapter 84, LD 1903, these were passed in the First Regular Session of the 118th and the First Special Session of the 118th. I will read Section 1 of Chapter 8. "Section 1, legislative compensation resolve that notwithstanding the Maine Revised Statutes, Title 3, Section 2, members of the Legislature are not entitled to compensation payments for attendance at any Special of the 118th Legislature held prior to the statutory adjournment date of June 18, 1997."

The Chair recognizes the Representative from Brunswick, Representative Richardson.

Representative **RICHARDSON**: Mr. Speaker, Men and Women of the House. I am going to urge you to support passage and I am going to briefly make two points. One, is on your register here on Page 21, Section 7, which says, "Senators and Representatives shall receive such compensation as shall be established by law. No law increasing their compensation shall take effect during the existence of the Legislature." I want to remind you that we are in the 121st Legislature. You are receiving an amount of money for what you are doing this year. We are going to adjourn soon. When we do, what I am understanding, the argument to be, is that somehow we should double dip. Somehow we should be paid twice for what we are doing here. You can throw the Constitution down on your desk for a minute and use your common sense here. You are going to look like thieves to the Maine people. You are going to look like a bunch of crooks to them because you turn around and accept money and then want more. To prove a point? I don't think so. I don't think that Maine people are going to get that point. I think they are just going to think that we are out there to enrich ourselves and use some technicality to do it. I am not going to be a part of that. That is why I want you to join me in passing it. Thank you.

The SPEAKER: The Chair recognizes the Representative from Turner, Representative Bryant-Deschenes.

Representative **BRYANT-DESCHENES**: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative **BRYANT-DESCHENES**: Thank you Mr. Speaker. Some people have brought up the fact that I am an attorney here. I am a brand new attorney and I have had very little experience. The second point I would like to make is that the cites that were read by the Speaker passed by very quickly and I learned to write very fast in law school, but I didn't get very much of that down. I have a question that I would like to ask the Speaker because he referenced several times that we cannot bind a subsequent Legislature. It is my understanding that we are the 121st, which means we could not bind the 122nd. Is that correct?

The SPEAKER: The Chair would answer in the affirmative.

Representative **BRYANT-DESCHENES**: Mr. Speaker, Ladies and Gentlemen of the House. I would ask what all of the case law that we heard and the cites that we heard then have to do with this issue. I don't think that we are attempting to bind the 122nd Legislature with our actions. Thank you.

The SPEAKER: The Chair would inform the Representative that the point of reading the case law was that the statutes that she is concerned with were passed by previous Legislatures attempting to bind this Legislature. It can't happen. That was the point. The compensation statutes to which you are referring were passed by previous Legislatures. The Supreme Court case is clear, although certainly any one in the State of Maine could have that case brought before it again. Again, it is pretty clear what the ruling was.

The Chair recognizes the Representative from Scarborough, Representative Clough.

Representative **CLOUGH**: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **CLOUGH**: Mr. Speaker, Men and Women of the House. I understand your point that it is law passed by a previous Legislature, but is the law and it hasn't been changed. We are attempting to change it here. Isn't that correct?

The SPEAKER: That is not the ruling of the Chair. The Chair rules that the Constitutional provision is what binds this Legislature.

The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative **BRUNO**: Mr. Speaker, May I pose a question to the Chair?

The SPEAKER: The Representative may pose his question.

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. Earlier you gave us some LD numbers from the 118th. Are there public law numbers to go with those LDs, Mr. Speaker?

The SPEAKER: The Chair would answer that it is Resolve Chapter 84 and Resolve Chapter 8. We will get copies to the Representative from Raymond.

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. I am going to have to paraphrase these because it has been a long time since I took history. It has been a long time since I took history. If I remember, it was Thomas Jefferson who talked about oppression and tyranny by the majority. If I remember, I think I may be wrong, but wasn't that Thomas Jefferson. I would assume most Democrats know what Thomas Jefferson had to say. I think it was FDR who said that the voice of the minority must not be disregarded. I think that was FDR. With this Joint Order that and everything prior to this, that is what is going on here. That is why I ask that you reject this Joint Order, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative O'Brien.

Representative **O'BRIEN**: Mr. Speaker, Ladies and Gentlemen of the House. I apologize for standing again. I know everyone is very hungry and very tired and very frustrated and wants to get out of here. You can count me among those. I just have to say that we are all pretending to try to be lawyers and running to law books and running to Masons and calling people and getting this all done. That isn't the point. We can argue until we are blue in the face. If the truth were to be known, there is probably only one person under this dome who knows really what is going on. I think we all know. Strip that all aside. That isn't the point. The fact that the public will look at us as thieves and greedy that is not the point. The point is, and several of you have asked me to explain it again, in the Constitution it says two-thirds vote. It was stripped off to make it a simple majority and that is not the right thing to do. Again, we can argue. We can take it to court. We can do all that we are going to do. This isn't about

that and it is not about the pay. It is doing what is right. Thank you.

The SPEAKER: The Chair recognizes the Representative from Waldoboro, Representative Trahan.

Representative **TRAHAN**: Mr. Speaker, Men and Women of the House. I would just like to make the point that the Representative from Brunswick had brought up a little bit earlier about taking the money. I do not plan, ladies and gentlemen of this House, to take one penny from the Special Session, but I am not going to support this motion.

Simply, ladies and gentlemen, I believe that tonight's discussion and probably a lot of yesterday's discussion stems from the first day that we got here. I have been here for six years and the tone the first day that we got here was bad and it has just gotten worse. I think to echo the Representative from Augusta, we may think that we are doing harm to each other or we are winning or we are losing, but the real losers are this institution and the people of this state.

My pledge to you tonight, ladies and gentlemen, is that I will not take a cent of Special Session money, but I will not continue to support this current atmosphere of hate. That is exactly what is going on here tonight.

The SPEAKER: The Chair recognizes the Representative from Harrison, Representative Sykes.

Representative **SYKES**: Mr. Speaker, Men and Women of the House. I am deeply troubled by this situation, as I am sure that all of us are deeply troubled. It is not a good place to be. I believe that this Resolve was crafted by a few people. I believe a vast majority of the good people on the other side of the aisle can see what this maneuver is. I desperately want to believe that when the vote is taken, it is an example of high quality positive ethical behavior. Thank you.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Duprey.

Representative **DUPREY**: Mr. Speaker, Men and Women of the House. I just have a couple quick things to say and then I will sit down, not that my words are going to mean anything. They never usually do. Politics is a contact sport and I like sports. I don't mind losing in politics. We are used to losing. We are in the minority, but when I go home I feel like I fought a fair fight and I lost. When you have to cheat to win, even though I am losing tonight, I feel like the other side had to cheat to win and it is not a good feeling.

The SPEAKER: A roll call has been ordered. The pending question before the House is Passage. All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 290

YEA - Adams, Ash, Barstow, Bennett, Blanchette, Bliss, Brannigan, Breault, Bull, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Duplessie, Duprey G, Earle, Finch, Fischer, Gagne-Friel, Gerzofsky, Grose, Hutton, Jennings, Kane, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, McGlocklin, McGowan, McKee, McLaughlin, Mills J, Moody, Norbert, Norton, O'Brien L, O'Neil, Paradis, Pellon, Percy, Perry J, Pineau, Pingree, Piotti, Richardson J, Rines, Sampson, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Tobin J, Twomey, Walcott, Watson, Woodbury, Wotton, Mr. Speaker.

NAY - Andrews, Annis, Austin, Berry, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Bunker, Campbell, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Davis, Duprey B, Fletcher, Greeley, Heidrich, Honey, Jacobsen, Jodrey, Joy, Kaelin, Ledwin, Lewin, McCormick, McKenney, McNeil, Millett, Murphy, Muse

O'Brien J, Richardson E, Rogers, Rosen, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Tobin D, Trahan, Treadwell.

ABSENT - Berube, Carr, Daigle, Dugay, Dunlap, Eder, Faircloth, Glynn, Goodwin, Hatch, Hotham, Jackson, Landry, Maietta, Mills S, Moore, Nutting, Patrick, Peavey-Haskell, Perry A, Rector, Richardson M, Saviello, Sherman, Usher, Vaughan, Wheeler, Young.

Yes, 70; No, 52; Absent, 28; Excused, 0.

70 having voted in the affirmative and 52 voted in the negative, with 28 being absent, and accordingly the Joint Order was **PASSED** in concurrence.

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The Speaker appointed Representative RICHARDSON of Brunswick on the part of the House to inform the Senate that the House was ready to adjourn without day.

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Subsequently, Representative RICHARDSON reported that he had delivered the message with which he was charged.

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The Chair appointed the following members on the part of the House to wait upon his Excellency, Governor John E. Baldacci and inform him that the House was ready to adjourn without day.

Representative KANE of Saco  
Representative MAILHOT of Lewiston  
Representative McKEE of Wayne  
Representative O'NEIL of Saco  
Representative PERRY of Bangor  
Representative USHER of Westbrook  
Representative BRUNO of Raymond  
Representative SNOWE-MELLO of Poland  
Representative TOBIN of Dexter  
Representative TREADWELL of Carmel

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Subsequently, the Committee reported that they had delivered the message with which they were charged.

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Representative CHURCHILL of Orland moved that the House stand **ADJOURNED WITHOUT DAY**.

Representative BRUNO of Raymond **REQUESTED** a roll call on the motion to **ADJOURN WITHOUT DAY**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is to Adjourn Without Day. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 291**

**YEA** - Adams, Ash, Barstow, Bennett, Blanchette, Bliss, Brannigan, Breault, Bull, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Duplessie, Duprey G, Earle, Eder, Finch, Fischer, Gagne-Friel, Gerzofsky, Goodwin, Grose, Jennings, Kane, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, McGlocklin, McKee, McLaughlin, Mills J, Moody, Norbert, Norton, O'Brien L, O'Neil, Paradis, Percy, Perry J, Pineau, Pingree, Piotti, Richardson J, Rines, Sampson, Simpson, Smith N, Sullivan, Suslovic, Thomas, Thompson, Twomey, Walcott, Woodbury, Wotton, Mr. Speaker.

**NAY** - Andrews, Annis, Austin, Berry, Bierman, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Davis, Duprey B, Fletcher, Glynn, Greeley, Heidrich, Jacobsen, Joy, Kaelin, Ledwin, Lewin, McCormick, McKenney, Murphy, O'Brien J, Richardson E, Rogers, Rosen, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Tobin J, Trahan, Treadwell.

ABSENT - Berube, Bowen, Bunker, Daigle, Dugay, Dunlap, Faircloth, Hatch, Honey, Hotham, Hutton, Jackson, Jodrey, Landry, Maietta, Marraché, McGowan, McNeil, Millett, Mills S, Moore, Muse, Nutting, Patrick, Peavey-Haskell, Pellon, Perry A, Rector, Richardson M, Saviello, Sherman, Smith W, Tobin D, Usher, Vaughan, Watson, Wheeler, Young.

Yes, 65; No, 47; Absent, 38; Excused, 0.

65 having voted in the affirmative and 47 voted in the negative, with 38 being absent, and accordingly the House Adjourned Without Day at 8:48 p.m.