

# MAINE STATE LEGISLATURE

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

**Volume III**

**Second Special Session**

April 8, 2004 - April 30, 2004

**Appendix**  
**House Legislative Sentiments**  
**Index**

Pages 1563-2203

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE  
 SECOND SPECIAL SESSION  
 41st Legislative Day  
 Thursday, April 29, 2004

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

Prayer by Reverend Robert G. Harris, Jr., Farmingdale (retired).

Pledge of Allegiance.

The Journal of yesterday was read and approved.

**SENATE PAPERS**  
**Non-Concurrent Matter**

An Act To Provide a Consistent Deadline for Filing Regulatory Agendas (EMERGENCY)

(S.P. 812) (L.D. 1963)

**FAILED** of **PASSAGE TO BE ENACTED** in the House on April 28, 2004.

Came from the Senate **PASSED TO BE ENACTED** in **NON-CONCURRENCE**.

Representative COLWELL of Gardiner moved that the House **RECEDE AND CONCUR**.

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 Recede and Concur. 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. 503**

**YEA** - Adams, Ash, Barstow, Beaudette, Blanchette, Bliss, Brannigan, Breault, Bull, Canavan, Clark, Cowger, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Gagne-Friel, Gerzofsky, Grose, Hatch, Hutton, Jackson, Jennings, Kane, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, McGowan, McLaughlin, Mills J, Moody, Norton, O'Brien L, O'Neil, Paradis, Pellon, Percy, Pineau, Pingree, Richardson J, Rines, Saviello, Simpson, Smith W, Sullivan, Suslovic, Thompson, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

**NAY** - Andrews, Annis, Austin, Berry, Berube, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Glynn, Goodwin, Heidrich, Honey, Hotham, Jodrey, Joy, Kaelin, Landry, Ledwin, Lewin, Maietta, McCormick, McNeil, Millett, Mills S, Moore, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson E, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Young.

**ABSENT** - Bennett, Bierman, Bunker, Churchill J, Craven, Dugay, Duprey B, Fischer, Fletcher, Greeley, Jacobsen, Marraché, McGlocklin, McKee, McKenney, Murphy, Muse, Norbert, Patrick, Perry A, Perry J, Piotti, Sampson, Smith N, Sykes, Thomas.

Yes, 66; No, 59; Absent, 26; Excused, 0.

66 having voted in the affirmative and 59 voted in the negative, with 26 being absent, and accordingly the Bill **FAILED PASSAGE TO BE ENACTED** and was sent to the Senate.

**COMMUNICATIONS**

The Following Communication: (H.C. 405)

**STATE OF MAINE**

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE**  
**COMMITTEE ON BUSINESS, RESEARCH AND ECONOMIC**  
**DEVELOPMENT**

April 16, 2004

The Honorable Beverly C. Daggett, President of the Senate

The Honorable Patrick Colwell, Speaker of the House

121st Maine Legislature

Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

We are pleased to report that all business which was placed before the Joint Standing Committee on Business, Research and Economic Development during the Second Regular and Second Special Sessions of the 121st Legislature has been completed.

The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers 41

Unanimous Reports 20

Ought to Pass 5

Ought to Pass as Amended 7

Ought Not to Pass 5

Referred to Another Committee 3

Divided Reports 14

Committee Bills & Papers 2

Pursuant to Statute 2

Gubernatorial Nominations 5

Respectfully submitted,

S/Lynn Bromley

Senate Chair

S/Nancy B. Sullivan

House Chair

**READ and ORDERED PLACED ON FILE.**

The Following Communication: (H.C. 420)

**STATE OF MAINE**

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE**  
**COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY**

April 16, 2004

The Honorable Beverly C. Daggett, President of the Senate

The Honorable Patrick Colwell, Speaker of the House

121st Maine Legislature

Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

We are pleased to report that all business which was placed before the Joint Standing Committee on Criminal Justice and Public Safety during the Second Regular and Second Special Sessions of the 121st Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers 26

Unanimous Reports 19

Ought to Pass 1

Ought to Pass as Amended 11

Ought Not to Pass 6

Referred to Another Committee 1

Divided Reports 5

Received by the Secretary

Pursuant to Joint Rule 309 1

Gubernatorial Nominations 1

Respectfully submitted,

S/Ethan K. Strimling

Senate Chair

S/Patricia A. Blanchette

House Chair

**READ and ORDERED PLACED ON FILE.**

The Following Communication: (H.C. 406)

**STATE OF MAINE**

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

April 16, 2004

The Honorable Beverly C. Daggett, President of the Senate

The Honorable Patrick Colwell, Speaker of the House

121st Maine Legislature

Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

We are pleased to report that all business which was placed before the Joint Standing Committee on Education and Cultural Affairs during the Second Regular and Second Special Sessions of the 121st Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers 40

Unanimous Reports 21

Ought to Pass 2

Ought to Pass as Amended 8

Ought to Pass in New Draft 1

Ought Not to Pass 9

Referred to Another Committee 1

Divided Reports 4

Committee Bills & Papers 1

Pursuant to Joint Order 1

Gubernatorial Nominations 14

Second named committee on one jointly referred bill.

Respectfully submitted,

S/Neria R. Douglass

Senate Chair

S/Glenn A. Cummings

House Chair

**READ and ORDERED PLACED ON FILE.**

The Following Communication: (H.C. 407)

**STATE OF MAINE**

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

April 16, 2004

The Honorable Beverly C. Daggett, President of the Senate

The Honorable Patrick Colwell, Speaker of the House

121st Maine Legislature

Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

We are pleased to report that all business which was placed before the Joint Standing Committee on Health and Human Services during the Second Regular and Second Special Sessions of the 121st Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers 49

Unanimous Reports 37

Ought to Pass 3

Ought to Pass as Amended 21

Ought Not to Pass 10

Referred to Another Committee 3

Divided Reports 9

Received by Clerk

Pursuant to Joint Rule 309 1

Committee Bills & Papers 1

Pursuant to Resolve 1

Gubernatorial Nominations 1

Respectfully submitted,

S/Michael Brennan

Senate Chair

S/Thomas J. Kane

House Chair

**READ and ORDERED PLACED ON FILE.**

The Following Communication: (H.C. 408)

**STATE OF MAINE**

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE  
COMMITTEE ON INLAND FISHERIES AND WILDLIFE**

April 16, 2004

The Honorable Beverly C. Daggett, President of the Senate

The Honorable Patrick Colwell, Speaker of the House

121st Maine Legislature

Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

We are pleased to report that all business which was placed before the Joint Standing Committee on Inland Fisheries and Wildlife during the Second Regular and Second Special Sessions of the 121st Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers 29

Unanimous Reports 20

Ought to Pass 1

Ought to Pass as Amended 9

Ought Not to Pass 9

Referred to Another Committee 1

Divided Reports 2

Gubernatorial Nominations 7

Respectfully submitted,

S/Bruce S. Bryant

Senate Chair

S/Matthew Dunlap

House Chair

**READ and ORDERED PLACED ON FILE.**

The Following Communication: (H.C. 409)

**STATE OF MAINE**

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE  
COMMITTEE ON INSURANCE AND FINANCIAL SERVICES**

April 16, 2004

The Honorable Beverly C. Daggett, President of the Senate

The Honorable Patrick Colwell, Speaker of the House

121st Maine Legislature

Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

We are pleased to report that all business which was placed before the Joint Standing Committee on Insurance & Financial Services during the Second Regular and Second Special Sessions of the 121st Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers 32

Unanimous Reports 18

Ought to Pass 1

Ought to Pass as Amended 9

Ought Not to Pass 7

Referred to Another Committee 1

Divided Reports 8

Gubernatorial Nominations 6

Respectfully submitted,

S/Lloyd P. LaFountain III  
Senate Chair  
S/Christopher P. O'Neil  
House Chair

**READ and ORDERED PLACED ON FILE.**

The Following Communication: (H.C. 410)

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

April 16, 2004

The Honorable Beverly C. Daggett, President of the Senate  
The Honorable Patrick Colwell, Speaker of the House  
121st Maine Legislature  
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

We are pleased to report that all business which was placed before the Joint Standing Committee on Judiciary during the Second Regular and Second Special Sessions of the 121st Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers	35
Unanimous Reports	26
Ought to Pass	2
Ought to Pass as Amended	10
Ought Not to Pass	14
Divided Reports	5
Gubernatorial Nominations	4

Respectfully submitted,

S/Peggy A. Pendleton

Senate Chair

S/William S. Norbert

House Chair

**READ and ORDERED PLACED ON FILE.**

The Following Communication: (H.C. 411)

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE  
COMMITTEE ON LABOR**

April 16, 2004

The Honorable Beverly C. Daggett, President of the Senate  
The Honorable Patrick Colwell, Speaker of the House  
121st Maine Legislature  
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

We are pleased to report that all business which was placed before the Joint Standing Committee on Labor during the Second Regular and Second Special Sessions of the 121st Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers	31
Unanimous Reports	18
Ought to Pass	0
Ought to Pass as Amended	10
Ought Not to Pass	8
Divided Reports	10
Gubernatorial Nominations	3

Respectfully submitted,

S/Betheda G. Edmonds

Senate Chair

S/William J. Smith

House Chair

**READ and ORDERED PLACED ON FILE.**

The Following Communication: (H.C. 412)

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

April 16, 2004

The Honorable Beverly C. Daggett, President of the Senate  
The Honorable Patrick Colwell, Speaker of the House  
121st Maine Legislature  
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

We are pleased to report that all business which was placed before the Joint Standing Committee on Legal and Veterans Affairs during the Second Regular and Second Special Sessions of the 121st Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers	29
Unanimous Reports	12
Ought to Pass	0
Ought to Pass as Amended	7
Ought Not to Pass	5
Divided Reports	13
Gubernatorial Nominations	4

Respectfully submitted,

S/Kenneth T. Gagnon

Senate Chair

S/Joseph E. Clark

House Chair

**READ and ORDERED PLACED ON FILE.**

The Following Communication: (H.C. 413)

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE  
COMMITTEE ON MARINE RESOURCES**

April 16, 2004

The Honorable Beverly C. Daggett, President of the Senate  
The Honorable Patrick Colwell, Speaker of the House  
121st Maine Legislature  
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

We are pleased to report that all business which was placed before the Joint Standing Committee on Marine Resources during the Second Regular and Second Special Sessions of the 121st Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers	16
Unanimous Reports	7
Ought to Pass	1
Ought to Pass as Amended	3
Ought Not to Pass	3
Divided Reports	6
Committee Bills & Papers	1
Pursuant to Joint Order	1
Gubernatorial Nominations	2

Respectfully submitted,

S/Dennis S. Damon

Senate Chair

S/Thomas D. Bull

House Chair

**READ and ORDERED PLACED ON FILE.**

The Following Communication: (H.C. 414)

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE  
COMMITTEE ON NATURAL RESOURCES**

April 16, 2004

The Honorable Beverly C. Daggett, President of the Senate  
The Honorable Patrick Colwell, Speaker of the House  
121st Maine Legislature  
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

We are pleased to report that all business which was placed before the Joint Standing Committee on Natural Resources during the Second Regular and Second Special Sessions of the 121st Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers	30
Unanimous Reports	16
Ought to Pass	1
Ought to Pass as Amended	12
Ought Not to Pass	1
Referred to Another Committee	2
Divided Reports	7
Gubernatorial Nominations	7

Respectfully submitted,  
S/John L. Martin  
Senate Chair  
S/Theodore Koffman  
House Chair

**READ and ORDERED PLACED ON FILE.**

The Following Communication: (H.C. 415)

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

April 16, 2004

The Honorable Beverly C. Daggett, President of the Senate  
The Honorable Patrick Colwell, Speaker of the House  
121st Maine Legislature  
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

We are pleased to report that all business which was placed before the Joint Standing Committee on State and Local Government during the Second Regular and Second Special Sessions of the 121st Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers	28
Unanimous Reports	17
Ought to Pass	3
Ought to Pass as Amended	6
Ought Not to Pass	7
Referred to Another Committee	1
Divided Reports	9
Committee Bills & Papers	2
Pursuant to Joint Order	2

Respectfully submitted,  
S/Margaret Rotundo  
Senate Chair  
S/Janet L. McLaughlin  
House Chair

**READ and ORDERED PLACED ON FILE.**

The Following Communication: (H.C. 421)

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

April 28, 2004

The Honorable Beverly C. Daggett, President of the Senate  
The Honorable Patrick Colwell, Speaker of the House  
121st Maine Legislature  
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

We are pleased to report that all business which was placed before the Joint Standing Committee on Taxation during the Second Regular and Second Special Sessions of the 121st Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers	39
Unanimous Reports	21
Ought to Pass	2
Ought to Pass as Amended	14
Ought Not to Pass	5
Divided Reports	16
Received by the Clerk & Secretary Pursuant to Joint Rule 309	2

Respectfully submitted,  
S/Stephen S. Stanley  
Senate Chair  
S/David G. Lemoine  
House Chair

**READ and ORDERED PLACED ON FILE.**

The Following Communication: (H.C. 416)

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE  
COMMITTEE ON TRANSPORTATION**

April 16, 2004

The Honorable Beverly C. Daggett, President of the Senate  
The Honorable Patrick Colwell, Speaker of the House  
121st Maine Legislature  
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

We are pleased to report that all business which was placed before the Joint Standing Committee on Transportation during the Second Regular and Second Special Sessions of the 121st Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers	27
Unanimous Reports	26
Ought to Pass	3
Ought to Pass as Amended	10
Ought Not to Pass	10
Referred to Another Committee	3
Divided Reports	0
Gubernatorial Nominations	1

Respectfully submitted,  
S/Pamela H. Hatch  
Senate Chair  
S/Ronald E. Usher  
House Chair

**READ and ORDERED PLACED ON FILE.**

The Following Communication: (H.C. 417)

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE  
COMMITTEE ON UTILITIES AND ENERGY**

April 16, 2004

The Honorable Beverly C. Daggett, President of the Senate

The Honorable Patrick Colwell, Speaker of the House

121st Maine Legislature

Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

We are pleased to report that all business which was placed before the Joint Standing Committee on Utilities and Energy during the Second Regular and Second Special Sessions of the 121st Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers	27
Unanimous Reports	13
Ought to Pass	1
Ought to Pass as Amended	7
Ought Not to Pass	5
Divided Reports	12
Committee Bills & Papers	2
Pursuant to Public Law	2

Respectfully submitted,  
S/Christopher G. L. Hall

Senate Chair

S/Lawrence Bliss

House Chair

**READ and ORDERED PLACED ON FILE.**

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The Following Communication: (H.C. 418)

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE  
JOINT SELECT COMMITTEE ON HEALTH CARE REFORM**

April 15, 2004

The Honorable Beverly C. Daggett, President of the Senate

The Honorable Patrick Colwell, Speaker of the House

121st Maine Legislature

Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

We are pleased to report that all business which was placed before the Joint Select Committee on Health Care Reform during the Second Regular and Second Special Sessions of the 121st Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers	1
Received by Clerk	
Pursuant to Joint Rule 309	1

Respectfully submitted,

S/Michael F. Brennan

Senate Chair

S/Christopher P. O'Neil

House Chair

**READ and ORDERED PLACED ON FILE.**

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The Following Communication: (H.C. 419)

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE  
JOINT SELECT COMMITTEE ON REGIONALIZATION  
AND COMMUNITY COOPERATION**

April 14, 2004

The Honorable Beverly C. Daggett, President of the Senate

The Honorable Patrick Colwell, Speaker of the House

121st Maine Legislature

Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

We are pleased to report that all business which was placed before the Joint Select Committee on Regionalization and Community Cooperation during the Second Regular and Second Special Sessions of the 121st Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers	3
Unanimous Reports	1
Ought to Pass	0
Ought to Pass as Amended	0
Ought Not to Pass	1
Divided Reports	2

Respectfully submitted,

S/Dennis S. Damon

Senate Chair

S/Janet L. McLaughlin

House Chair

**READ and ORDERED PLACED ON FILE.**

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The Following Communication: (H.C. 403)

**MAINE STATE LEGISLATURE  
AUGUSTA, MAINE 04333  
COMMITTEE TO STUDY NEW PAYMENT MODELS  
FOR THE LOGGING INDUSTRY**

April 28, 2004

The Honorable Beverly C. Daggett, President

Maine State Senate

The Honorable Patrick Colwell, Speaker

Maine House of Representatives

State House

Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

This letter is to inform you that the Committee to Study New Payment Models For The Logging Industry has completed its work and submitted its report, pursuant to Joint Order, House Paper 724.

Sincerely,

S/Senator Bruce Bryant, Chair

S/Representative Linda Rogers McKee, Chair

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

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The Following Communication: (S.P. 811)

**STATE OF MAINE  
SUPREME JUDICIAL COURT  
142 FEDERAL STREET  
PORTLAND, MAINE 04112  
OPINION OF THE JUSTICES  
OF THE SUPREME JUDICIAL COURT  
GIVEN UNDER THE PROVISIONS OF  
ARTICLE VI, SECTION 3 OF THE MAINE CONSTITUTION  
Docket No. OJ 04-01**

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QUESTIONS PROPOUNDED BY THE MAINE SENATE  
AND THE MAINE HOUSE OF REPRESENTATIVES  
IN A COMMUNICATION  
DATED March 29, 2004  
ANSWERED April 16, 2004

---

ANSWER OF CHIEF JUSTICE SAUFLEY,  
JUSTICE DANA,  
JUSTICE CALKINS, AND  
JUSTICE LEVY

To the Honorable Senate and House of Representatives of the State of Maine:

[¶1] The Senate and the House of Representatives ask us for an advisory opinion addressing questions related to the constitutionality of Initiated Bill 4, L.D. 1893 (121st Legis. 2004), "An Act to Impose Limits on Real and Personal Property Taxes." Specifically, we are asked to advise whether, if Initiated Bill 4 is enacted by the people, its provisions would require the assessment of real estate taxes in violation of Article IX, Section 8 of the Maine Constitution.<sup>1</sup> We are also asked whether, if we answer the first question in the affirmative, any of the remaining provisions of the initiated bill would be effective by virtue of the severability provisions.

I. SOLEMN OCCASION

[¶2] The Maine Constitution requires the justices of the Supreme Judicial Court to answer the questions propounded by the Senate and House if they are important questions of law and present a solemn occasion. ME. CONST. art. VI, § 3. Because not all of the justices agree that a solemn occasion exists, the undersigned justices briefly explain why we conclude that this is a solemn occasion.

[¶3] A solemn occasion exists when the questions are of a serious and immediate nature, *Opinion of the Justices*, 2002 ME 169, ¶ 6, 815 A.2d 791, 794; and the situation presents an unusual exigency, as when the Senate and the House have serious doubts as to action they can take, *Opinion of the Justices*, 709 A.2d. 1183, 1185 (Me. 1997). These factors are present.

[¶4] There is no question that the concerns of the Senate and House are serious. Initiated Bill 4 makes a major structural change in the valuation of property for property tax purposes, and it is the property tax upon which municipalities rely for revenue.

[¶5] Immediacy and an unusual exigency are likewise present. The Legislature has a constitutional duty to make a decision regarding Initiated Bill 4. That is, it must enact the bill, propose a competing measure, or decide to take no action. ME. CONST. art. IV, pt. 3, § 18, cl. 2. The Attorney General has given the Legislature an opinion that the valuation formula in Initiated Bill 4 is unconstitutional and that the severability provisions do not save the rest of the act. The Legislature has before it an immediate issue of whether to enact Initiated Bill 4 as written or propose a competing measure.<sup>2</sup> In light of these circumstances, we conclude that the requisite seriousness, immediacy and an unusual exigency exist.

[¶6] In the past, a majority of justices found that a solemn occasion existed when the House had a question about the constitutionality of an initiated bill that had not yet gone to the electorate. *Opinion of the Justices*, 623 A.2d 1258, 1261-62 (Me. 1993). There may be policy reasons in favor of amending the constitution to limit the use of advisory opinions from the justices when the questions involve an initiative, but because such amendment has not been enacted, the policy reasons do not allow us to decline to give our opinions. Former Chief Justice Emery indicated that although he considered Article VI, Section 3 of the Maine Constitution "undesirable," Lucilius A. Emery, *Advisory Opinions from Justices*, 2 ME. L. REV. 1, 1 (1908), because the provision remains in the constitution, "the Justices have no discretion in the matter. Their opinion is not 'requested'; it is 'required.'" There is no suggestion that they may choose

whether or not to give it." Lucilius A. Emery, *Advisory Opinion of the Justices, No. II*, 11 ME. L. REV. 15, 16 (1917).

[¶7] The members of the Maine Senate and the House of Representatives have told us that they need our opinion in order to undertake their responsibilities. We take them at their word that an opinion on the constitutionality of the initiated bill by the justices would assist and inform the Senate and House in their deliberations.

II. RESPONSE TO QUESTION ONE

[¶8] The first question propounded by the Legislature is the following:

Question 1. If Initiated Bill 4 becomes law, would those provisions of the bill that require the calculation of property taxes based on "full-cash value" or "appraised value," as adjusted, violate the Constitution of Maine, Article IX, Section 8, which requires taxes on real and personal property to be assessed and apportioned equally and according to just value?

A. Summary of Answer

[¶9] It is our opinion that the answer to this question is yes. For the reasons set out below, we conclude that those provisions of the initiative that base property taxes on "full-cash value" as defined by the proposed amendment to Title 36 M.R.S.A. § 351(4) (contained in Initiated Bill 4, L.D. 1893 (121st Legis. 2004)) would violate the requirement of Article IX, Section 8 of the Maine Constitution mandating that "[a]ll taxes . . . shall be apportioned and assessed equally according to the just value thereof."<sup>3</sup>

B. Standards Applied

[¶10] Because we are asked to give our opinion on the constitutionality of a proposed law, and because that opinion must be based on a reasonable anticipation of the Law Court's conclusion, should it be called upon to rule on the constitutionality of the initiative as enacted in the context of a live controversy, we begin our analysis by addressing the Law Court's standard of review of initiated laws. In evaluating citizen initiatives, the Law Court applies the ordinary rules of statutory construction. *League of Women Voters v. Sec'y of State*, 683 A.2d 769, 771 (Me. 1996) (citing *Opinion of the Justices*, 460 A.2d 1341, 1345 (Me. 1982)). Accordingly, Initiated Bill 4 carries a heavy presumption of constitutionality, and "[b]efore [the bill] may be declared in violation of the Constitution, that fact must be established to such a degree as to leave no room for reasonable doubt." *Id.* at 771-72 (quoting *Orono-Veazie Water Dist. v. Penobscot County Water Co.*, 348 A.2d 249, 253 (Me. 1975)).

C. Analysis

[¶11] We must determine, therefore, whether the application of the "full-cash value" definition referenced in the Question is so contrary to the requirements of fair and equal taxation as to leave no reasonable doubt that it violates the Maine Constitution.

[¶12] Full-cash value is defined in Initiated Bill 4 as follows:

4. **Full-cash value.** "Full-cash value" means the governmental entity's total assessed valuation of real or personal property as shown on the 1996-97 tax bill under "total value." For newly constructed or newly purchased real or personal property that changes in ownership after the 1996-97 assessment, "full-cash value" means the appraised value.

L.D. 1893 (121st Legis. 2004) (proposed as 36 M.R.S.A. § 351(4)).

[¶13] On its face, this definition creates two different bases for tax value purposes: one for property acquired by its current



owner before the 1996-97 assessment and one for all property acquired after that assessment. For taxpayers who purchased before the 1996-97 assessment, property taxes would be based not on fair market value, but on an assessed value from eight years ago.<sup>4</sup> For those who acquired the property later, taxes would be based on a more recent appraised value.<sup>5</sup> In other words, the bill provides for disparate treatment of property based not on the property's value but on the date of acquisition by the property's current owner.

[¶14] The Maine Constitution provides that "[a]ll taxes upon real and personal estate, assessed by authority of this State, shall be apportioned and assessed equally according to the just value thereof." ME. CONST. art. IX, § 8. In *Eastler v. State Tax Assessor*, the Law Court explained this provision as follows:

This constitutional provision establishes two requirements for a valid property tax: a valuation requirement and an apportionment requirement. Under the valuation requirement the tax-levying authority must determine the market value of the property. See *Shawmut Inn v. Town of Kennebunkport*, 428 A.2d 384, 389 (Me. 1981) ("Just value" is the equivalent of "market value."). Under the apportionment requirement the taxing authority must then apportion the tax equally according to the market value. The purpose of the two constitutional requirements is to equalize public burdens so that a taxpayer contributes to the entire tax burden in proportion to his share of the total value of all property subject to the tax. See *Opinion of the Justices*, 155 Me. 30, 47, 152 A.2d 81, 89 (1959).

499 A.2d 921, 924 (Me. 1985).

[¶15] Thus, property taxes must be based on market value and must be apportioned equally according to that value. It bears highlighting that these requirements are established by the unequivocal terms of the Maine Constitution. ME. CONST. art. IX, § 8. They are neither statutorily nor judicially established.

[¶16] We are of the opinion that the proposed use of the 1996-97 assessed value as the tax base for long-owned property runs afoul of the requirement that a valid property tax must be based on market value.<sup>6</sup> Although flexibility in the methodology for determining market value is consistent with constitutional requirements,<sup>7</sup> the end result of any methodology must be a reasonable determination of "market value." Initiated Bill 4 creates an entire class of property owners whose taxes will not be based on market value, except in those undeterminable instances where the 1996-97 assessed value coincides by happenstance with the current market value.<sup>8</sup>

[¶17] It is also apparent that, by creating two separate non-market-value bases on which taxes will be founded, the initiated bill violates the requirement of equal apportionment. The Law Court recently discussed the equal apportionment requirement as it applied to municipalities in *Delogu v. City of Portland*, 2004 ME 18, 843 A.2d 33. The Court noted that Article IX, Section 8 "prohibits municipalities from engaging in unjust discrimination in the assessment of real estate taxes or the apportionment of real estate tax burdens." *Delogu*, 2004 ME 18, ¶ 12, 843 A.2d 33, --- (citing *Ram's Head Partners, LLC v. Town of Cape Elizabeth*, 2003 ME 131, ¶ 9, 834 A.2d 916, 919). "A finding of discrimination is indicated when the municipal assessment system necessarily results in unequal apportionment." *Id.* (internal quotation marks omitted). The under or over assessment of one set of similarly situated properties will support a finding of unjust discrimination. *Id.*

[¶18] Application of the definition of "full-cash value" will result in just that—the disparate taxation of two similar or identical properties with the resulting unjust discrimination. The violation of the equal apportionment provisions of Article IX, Section 8 is clear.

D. Answer to Question #1

[¶19] Accordingly, we answer Question #1 in the affirmative: If Initiated Bill 4 becomes law, those provisions of the bill that require the calculation of property taxes based on "full-cash value" or "appraised value," as adjusted, would violate Article IX, Section 8 of the Constitution of Maine, which requires taxes on real and personal property to be assessed and apportioned equally and according to just value.

### III. RESPONSE TO QUESTION 2

[¶20] The Second Question propounded by the legislature is the following:

Question 2. Initiated Bill 4, in the part that proposes the Maine Revised Statutes, Title 36, section 361, proposes a severability clause. If your answer to Question 1 indicates that portions of the initiated bill are unconstitutional, would any of the initiated bill's provisions remain effective by virtue of Title 36, section 361 or Title 1, section 71, subsection 8?

A. Summary of Answer

[¶21] It is our opinion that the answer to this question is also yes. The portions of the initiated bill that are unconstitutional are severable by virtue of 1 M.R.S.A. § 71(8) (Supp. 2003) and proposed 36 M.R.S.A. § 361, and are not so integral as to invalidate the bill in its entirety. However, we express no opinion regarding whether individual provisions would be effective for the reasons set out below.<sup>9</sup>

B. Analysis

[¶22] The Law Court begins a severability analysis by considering Title 1, section 71(8), which states:

The provisions of the statutes are severable. The provisions of any session law are severable. If any provision of the statutes or a session law is invalid, or if the application of either to any person or circumstance is invalid, such invalidity does not affect other provisions or applications which *can be given effect* without the invalid provision or application. . . .

1 M.R.S.A. § 71(8) (emphasis added).

[¶23] In applying severability provisions, the Law Court has explained that if a provision of a statute is invalid, that provision is severable from the remainder of the statute as long as the rest of the statute "can be given effect" without the invalid provision, and the invalid provision is not such an integral part of the statute that the Legislature would only have enacted the statute as a whole. *Bayside Enters., Inc. v. Me. Agric. Bargaining Bd.*, 513 A.2d 1355, 1360 (Me. 1986); *Lambert v. Wentworth*, 423 A.2d 527, 535-36 (Me. 1980); *Town of Windham v. LaPointe*, 308 A.2d 286, 292 (Me. 1973). The Law Court considers the legislative purpose or purposes of the statute under consideration when examining questions of severability. See *Bayside Enters., Inc.*, 513 A.2d at 1360; *Lambert*, 423 A.2d at 535; see also 2 NORMAN J. SINGER, STATUTES AND STATUTORY CONSTRUCTION § 44:3, at 552 (6th ed. 2001) ("[S]eparability is to be decided according to the legislative intent.").

[¶24] Thus, there are two components to the determination of the effectiveness of the remaining provisions of Initiated Bill 4. A court would have to decide: (1) whether the invalid provisions are so integral to the initiated bill that the entire act would have to be struck down, and (2) whether, individually, the remaining

provisions can function and be given effect absent the invalid provisions.

[¶25] We begin, as does the Law Court, by focusing on legislative purpose in examining severability. When the provisions of a statute "are so related in substance and object that it is impossible to determine that the legislation would have been enacted except as an entirety, if one portion offends the Constitution, the whole must fall." *LaPointe*, 308 A.2d at 292: see 2 SINGER § 44:6, at 580 ("[W]here the invalid portion was the principal inducement for the passage of the statute, the whole statute must fail.").

[¶26] A statute's finalized legislative history ordinarily provides guidance as to its legislative purpose and whether any invalid provisions were integral to the statute's enactment. See *Bayside Enters., Inc.*, 513 A.2d at 1359; *Lambert*, 423 A.2d at 535. Typically, when the Law Court is asked to undertake a severability analysis of an existing statute, there is a legislative record, House and Senate debate, or a detailed summary attached to the bill.

[¶27] The legislative history available to us in this instance is limited to the language of the bill itself and the Summary attached to the bill. As set forth in that Summary, Initiated Bill 4 contains at least three key features: the roll-back to 1996-97 valuation for long-time owners, L.D. 1893 (121st Legis. 2004) (proposed 36 M.R.S.A. §§ 351(4), 352(1)); the limitation of "a maximum rate of 1% on the value of the property," L.D. 1893, Statement of Fact (121st Legis. 2004); and a cap on annual property value increases of 2%, L.D. 1983 (proposed 36 M.R.S.A. § 353(2)).

[¶28] These features and other tax control related measures are evident in the language of the bill itself. Viewed as a whole, the initiative contains multiple separate goals and aims at creating a variety of tax related changes. It is significant that Initiated Bill 4 contains its own severability clause in proposed section 361, which states that "[i]f any portion, word, clause or phrase of this initiative for any reason is held to be invalid or unconstitutional by a court of competent jurisdiction, the remaining portions, clauses and phrases may not be affected, but shall remain in full force and effect." L.D. 1893 (121st Legis. 2004). Given the standing presence of an existing severability provision at 1 M.R.S.A. § 71(8), this provision demonstrates a compelling intent to have the remaining sections stand on their own.

[¶29] With all of this in mind, and on the limited record available to us, we are of the opinion that the elimination of the roll-back provision and related base valuation mechanisms are not so integral to the initiative as to invalidate the bill in its entirety.

[¶30] We caution, however, that we do not opine on the individual effectiveness of each remaining provision. Absent a record of "a concrete, certain, or immediate legal problem" against which to assess each individual provision, our opinion regarding the provisions' effectiveness will be unduly speculative and hypothetical. *Wagner v. Sec'y of State*, 663 A.2d 564, 567 (Me. 1995). Because of the complex nature of Initiated Bill 4, it is impracticable to render an opinion in the abstract regarding the effectiveness of its constituent parts.

C. Answer to Question #2

[¶31] Accordingly, we answer Question #2 in the affirmative: If the provisions of the bill examined in Question #1 are unconstitutional as we have opined, those provisions are not so integral to the initiative as to render the entire bill invalid.

Dated: April 16, 2004

S/ Leigh I. Saufley

Leigh I. Saufley  
Chief Justice

S/ Howard H. Dana, Jr.

Howard H. Dana, Jr.

Associate Justice

S/ Susan Calkins

Susan Calkins

Associate Justice

S/ Jon D. Levy

Jon D. Levy

Associate Justice

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ANSWER OF JUSTICE CLIFFORD,  
JUSTICE RUDMAN AND  
JUSTICE ALEXANDER

To the Honorable Senate and House of Representatives of the State of Maine:

[¶32] We do not concur in the opinion of our colleagues on the Court and pursuant to Article VI, Section 3 of the Maine Constitution, we, the undersigned justices of the Supreme Judicial Court, have the honor to submit our separate response to the questions propounded by the Senate and House of Representatives on March 29, 2004.

[¶33] Although we respect the seriousness of purpose and earnestness of concern by the Senate and the House of Representatives, which have caused them to propound these questions, we respectfully decline to answer the questions. Because the proposed law is yet to be voted on by the people, there is no matter of "live gravity" and no question of sufficient immediacy and seriousness to create a solemn occasion justifying our answer. It is important to distinguish between a question of live gravity and one that is of potential live gravity. Our constitution requires that we respond to the former and forbids us from responding to the latter.

[¶34] The doctrine of separation of powers, articulated in Article III of the Maine Constitution, dictates that we decline to answer questions presented by either the Legislature or the Governor regarding matters within their respective authority. ME. CONST. art. III, §§ 1-2; *Opinion of the Justices*, 2002 ME 169, ¶ 4, 815 A.2d 791, 794; *Opinion of the Justices*, 396 A.2d 219, 223 (Me. 1979). A narrow exception to this fundamental principle of separation of powers is created by Article VI, Section 3, which provides that "[t]he Justices of the Supreme Judicial Court shall be obliged to give their opinion upon important questions of law, and upon solemn occasions, when required by the Governor, Senate or House of Representatives." ME. CONST. art. VI, § 3. When we receive a request for an advisory opinion pursuant to Article VI, Section 3, we must first determine whether it is within the scope of our limited constitutional authority to provide advisory opinions only "upon important questions of law, and upon solemn occasions." *Opinion of the Justices*, 2002 ME 169, ¶ 5, 815 A.2d at 794; *Opinion of the Justices*, 682 A.2d 661, 663 (Me. 1996).

[¶35] Prior opinions of the justices of this Court have articulated certain criteria to guide our determination of whether a "solemn occasion" has been presented on "important questions of law." First, the issue on any question presented must be one of "live gravity," referring to the immediacy and the seriousness of actions that the Legislature or the Governor must take and on which they seek guidance through an advisory opinion. See *Opinion of the Justices*, 2002 ME 169, ¶ 6, 815 A.2d at 794; *Opinion of the Justices*, 709 A.2d 1183, 1185 (Me. 1997). In 1997, the justices of this Court stated that "[a] solemn occasion refers to an 'unusual exigency, such an exigency as exists when the body making the inquiry, having some action in view, has serious doubts as to its power and authority to take such action

under the Constitution or under existing statutes." *Opinion of the Justices*, 709 A.2d at 1185 (quoting *Opinion of the Justices*, 95 Me. 564, 567, 51 A. 224, 225 (1901)).

[¶36] Opinions of the Justices propounded pursuant to Article VI, Section 3 of the Maine Constitution "are not binding decisions of the Supreme Judicial Court." *Opinion of the Justices*, 673 A.2d 693, 695 (Me. 1996). Such an advisory opinion "has no precedential value and no conclusive effect as a judgment upon any party." *Opinion of the Justices*, 396 A.2d at 223. Even recognizing those limitations, such opinions are viewed as providing guidance on both present and future controversies. *Opinion of the Justices*, 2002 ME 169, ¶ 7, 815 A.2d at 795. Thus, in 2002, we observed that "the determination that a question presents a 'solemn occasion' is of significant import, and we will not find such an occasion to exist except in those circumstances when the facts in support of the alleged solemn occasion are clear and compelling." *Id.* ¶ 8, 815 A.2d at 795.

[¶37] The above principles apply to our solemn occasion analysis any time questions are propounded pursuant to Article VI, Section 3, but we must examine the solemn occasion issue with particular rigor when, before the people vote, we are asked to give an advisory opinion regarding the constitutionality of an initiated bill. Pursuant to the Maine Constitution, Article IV, Part 3, Section 18, Clause 2, an initiated bill must either be enacted by the Legislature without change or it must be submitted, as a referendum question, to a vote of the people. *Wagner v. Sec'y of State*, 663 A.2d 564, 566 n.3 (Me. 1995); *Opinion of the Justices*, 673 A.2d at 697. Although, pursuant to the Maine Constitution, Article IV, Part 3, Section 18, Clause 2, the Legislature may submit a competing measure for consideration on the ballot, the initiated bill itself may not be withdrawn from the ballot or amended in any way, even if a constitutional infirmity in the initiated bill should be identified. *Opinion of the Justices*, 673 A.2d at 697.

[¶38] Like the initiated bill at issue in *Wagner*, Initiated Bill 4 may not be enacted, and its provisions may never become effective to create a live controversy with the immediate and serious impacts proper for consideration on judicial review. Short of a live controversy with immediate and serious impacts, creating the solemn occasion justifying our answering the propounded questions, we would be interfering with the political process and the people's right of franchise by offering an opinion on the constitutionality of Initiated Bill 4 before the electorate has expressed its view.

[¶39] The legislative findings submitted with the questions propounded to us suggest that there is an immediate and serious need for action and for our advice for the Legislature to properly consider the fiscal year 2004-2005 budget and to properly determine whether to prepare and submit to the voters a competing measure. Based on these findings, our colleagues offer a non-binding opinion on the constitutionality of Initiated Bill 4 before the voters have had a chance to address it. After addressing the critical severability issue and offering a tentative opinion, they decline to indicate which provisions may remain effective and they conclude:

Absent a record of "a concrete, certain, or immediate legal problem" against which to assess each individual provision, our opinion regarding the provisions' effectiveness will be unduly speculative and hypothetical. *Wagner v. Sec'y of State*, 663 A.2d 564, 567 (Me. 1995). Because of the complex nature of Initiated Bill 4, it is impracticable to render an opinion in the abstract regarding the effectiveness of its constituent parts.

[¶40] This supports our conclusion that there is no solemn occasion and that we shall not answer the question. Our most recent *Opinion of the Justices* stated that "we will not answer questions that are 'tentative, hypothetical and abstract.'" *Opinion of the Justices*, 2002 ME 169, ¶ 6, 815 A.2d at 795 (quoting *Opinion of the Justices*, 330 A.2d 912, 915 (Me. 1975)). Separately, justices of this Court have indicated that the questions presented must be sufficiently precise for the justices to be able to determine "the exact nature of the inquiry." *Opinion of the Justices*, 155 Me. 125, 141, 152 A.2d 494, 501 (1959).

[¶41] The questions presented here require an analysis of intersecting laws, constitutional provisions, and facts. The complexity of the varying considerations renders it impossible for us to be confident of the law and other circumstances to such a degree as to "leave no room for reasonable doubt." *League of Women Voters v. Sec'y of State*, 683 A.2d 769, 771 (Me. 1996). It would be far preferable for the constitutionality of Initiated Bill 4 to be determined in a fully litigated case.

[¶42] Should Initiated Bill 4 be enacted by the people, the first impact of its provisions would be applicable to municipal valuations for the tax year beginning April 1, 2005. 36 M.R.S.A. § 502 (Supp. 2003). If Initiated Bill 4 were enacted in early November, there would be approximately five months between its adoption by the voters and its initial impact. That would allow time to address any constitutional concerns through judicial action in a properly litigated case and through legislative action by the next Legislature, convening in December 2004.

[¶43] It is clear that any assessment resulting from the initiated bill's provisions would have no direct impact on the fiscal year 2004-2005 State budget. Establishing valuations on April 1 of any year is but the first step in the assessment and collection of property taxes. Before taxes can actually be assessed, the mill rate must be set for each municipality based on budgets adopted by municipal, school, and county authorities. Any impact on state or local budgets as a result of the enactment of Initiated Bill 4 and the valuations for April 1, 2005, would not occur until the 2005-2006 State fiscal year, impacting a budget that is the responsibility of the next Legislature.

[¶44] The need for the Legislature to know if it should submit a competing measure to the voters is insufficient justification for us to answer the questions. Otherwise we would be required to answer any question submitted pertaining to an initiated bill. The material submitted by the Senate and the House does not suggest that the Legislature is in any way prevented from preparing and submitting a competing measure to the voters, if it believes such is justified, based on its own public policy and legal analysis. The decision to submit alternative legislation is uniquely assigned to the Legislature by Article IV, Part 3, Section 18, Clause 2 of the Maine Constitution, and should not turn on a premature opinion by justices of this Court as to the constitutionality of the initiated bill before it may become law.

[¶45] Because there is no current controversy of live gravity, involving a matter with immediate and serious impacts, and because we must be particularly cautious when the matter in question must be presented to the electorate, regardless of any advice we give, we determine that a solemn occasion does not exist and we respectfully decline to answer the questions propounded to us.

Dated: April 16, 2004

S/ Robert W. Clifford

Robert W. Clifford  
Associate Justice

S/ Paul L. Rudman

Paul L. Rudman  
Associate Justice

S/ Donald G. Alexander  
 Donald G. Alexander  
 Associate Justice

<sup>1</sup> Article IX, Section 8 of the Maine Constitution requires, in pertinent part: "All taxes upon real and personal estate, assessed by authority of this State, shall be apportioned and assessed equally according to the just value thereof."

<sup>2</sup> For this reason, it is unnecessary to discuss whether there is sufficient time for the Legislature to deal with the financial consequences if the initiated bill passes.

<sup>3</sup> Reaching a similar conclusion, the Attorney General advised the Legislature's Joint Standing Committee on Taxation that key provisions of Initiated Bill 4 violate Article IX, Section 8 of the Maine Constitution. Letter from G. Steven Rowe, Attorney General, to Members of the Joint Standing Committee on Taxation (March 23, 2004), at 1. In particular, the Attorney General concluded Initiated Bill 4 "will result in [property tax] assessments of similarly situated properties that vary based on how long the property has been owned and that do not reflect market value." *Id.* at 7.

<sup>4</sup> Because we have been asked to address effectiveness in the context of the severability provisions of 1 M.R.S.A. § 71(8) (Supp. 2003) and proposed 36 M.R.S.A. § 361, we do not address the claims asserted in the briefs regarding other possible constitutional infirmities.

<sup>5</sup> Because "appraised value" is unquestionably different from the 1996-97 assessed value, we need not determine whether appraised value means the value in the year acquired, or in each tax year.

<sup>6</sup> Similarly, the Attorney General has opined that "[b]y requiring that property be assigned either the value stated on 1996-97 tax bills or, if acquired or newly constructed after that time, the appraised value at the time of construction or acquisition, the [initiated] bill results in a significant number of properties being valued at less than market value." Letter from Attorney General to Committee on Taxation, at 5.

<sup>7</sup> The *Shawmut Inn* Court explained that "this Court has permitted the local assessors considerable leeway in choosing the method or combinations of methods to achieve just valuations. [It has] found acceptable as techniques to aid local assessors at least three standard appraisal methods of determining the market value of real property: (1) the 'comparative' or 'market data' approach, (2) the 'income' or 'capitalization' approach, and (3) the 'reproduction cost less depreciation' or 'cost' approach." *Shawmut Inn v. Town of Kennebunkport*, 428 A.2d 384, 390 (Me. 1981).

<sup>8</sup> We need not determine whether the phrase "appraised value" applied to recently purchased property would also violate the requirement that taxes be based on market value.

<sup>9</sup> Because we have been asked to address effectiveness in the context of the severability provisions of 1 M.R.S.A. § 71(8) (Supp. 2003) and proposed 36 M.R.S.A. § 361, we do not address the claims asserted in the briefs regarding other possible constitutional infirmities.

Came from the Senate, **READ** and **ORDERED PLACED ON FILE**.

**READ** and **ORDERED PLACED ON FILE** in concurrence.

#### ORDERS

On motion of Representative WHEELER of Kittery, the following House Order: (H.O. 55)

ORDERED, that Representative Philip R. Bennett, Jr. of Caribou be excused Monday, April 5th and Wednesday, April 7th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Roger A. Landry of Sanford be excused Thursday, April 15th, and Friday, April 16th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Mary Ellen Ledwin of Holden be excused Thursday, April 15th and Friday, April 16th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Terrence P. McKenney of Cumberland be excused Wednesday, April 28th and Thursday, April 29th for personal reasons.

**READ** and **PASSED**.

Representative COWGER of Hallowell assumed the Chair.  
 The House was called to order by the Speaker Pro Tem.

#### REPORTS OF COMMITTEE

**Ought to Pass Pursuant to Public Law and Resolve**  
 Representative McKEE for the **Joint Standing Committee on Agriculture, Conservation and Forestry** on Bill "An Act Regarding Penalties Assessed by the Bureau of Forestry"

(H.P. 1472) (L.D. 1965)

Reporting **Ought to Pass** pursuant to Public Law 2003, chapter 422, Part B, section 2 and Resolve 2003, chapter 101, section 3.

Report was **READ** and **ACCEPTED**. The Bill **READ ONCE**.

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

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED** and sent for concurrence.

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

#### Divided Report

Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-966)** on Resolve, Regarding Legislative Review of Chapter 23: Standards for Timber Harvesting To Substantially Eliminate Liquidation Harvesting, a Major Substantive Rule of the Department of Conservation (EMERGENCY)

(H.P. 1466) (L.D. 1962)

Signed:

Senator:

BRYANT of Oxford

Representatives:

McKEE of Wayne

SMITH of Monmouth

EDER of Portland

LUNDEEN of Mars Hill

PINEAU of Jay

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-967)** on same Resolve.

Signed:

Senators:

KNEELAND of Aroostook

YOUNGBLOOD of Penobscot

Representatives:

HONEY of Boothbay  
 CARR of Lincoln  
 CHURCHILL of Orland

**READ.**

Representative PINEAU of Jay moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report and later today assigned.

The following item was taken up out of order by unanimous consent:

**UNFINISHED BUSINESS**

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Bill "An Act To Increase Returnable Beverage Container Redemption Rates"

(H.P. 931) (L.D. 1257)

- In House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-855) AS AMENDED BY HOUSE AMENDMENT "A" (H-956)** thereto on April 27, 2004.

- In Senate, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-855)** in **NON-CONCURRENCE**.

**TABLED** - April 28, 2004 (Till Later Today) by Representative DUPLESSIE of Westbrook.

**PENDING - FURTHER CONSIDERATION.**

Representative SULLIVAN of Biddeford moved that the House **ADHERE**.

Representative AUSTIN of Gray moved that the House **RECEDE AND CONCUR**.

Representative SULLIVAN of Biddeford **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 PRO TEM**: The Chair recognizes the Representative from Biddeford, Representative Sullivan.

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. This is the returnable container redemption rate. It is almost as exciting as the dental bill that the Representative mentioned last night. I am still asking you to make whole what we promised the redemption centers, which include the small mom-and-pop stores and give them simply the half penny. Everything else in the bill would stand as is, but we promised this and we voted on this law. We had them go through a busy season last year, the summer season, with the promise that as of March 1st we would do something to correct it. We did not.

This one would totally undo 985 that we passed. It is a landmark decision moving the bottle bill forward. I simply would ask you to vote to send it down in non-concurrence. If the other chamber would like a committee, then we certainly could do it. Thank you.

The **SPEAKER PRO TEM**: 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. 504**

**YEA** - Andrews, Annis, Austin, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Fischer, Glynn, Heidrich,

Honey, Jodrey, Joy, Kaelin, Landry, Ledwin, Lewin, Maietta, McCormick, McNeil, Millett, Mills S, Moore, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson E, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Tardy, Tobin D, Tobin J, Treadwell, Vaughan, Young.

**NAY** - Adams, Barstow, Beaudette, Blanchette, Bliss, Brannigan, Breault, Bull, Canavan, Clark, Cowger, Cummings, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Gagne-Friel, Gerzofsky, Goodwin, Grose, Hatch, Hotham, Hutton, Jackson, Jennings, Kane, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, McGowan, McLaughlin, Moody, Norton, O'Brien L, O'Neil, Paradis, Pellon, Pineau, Pingree, Richardson J, Rines, Saviello, Simpson, Smith W, Sukeforth, Sullivan, Suslovic, Thomas, Thompson, Trahan, Twomey, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

**ABSENT** - Ash, Bennett, Bunker, Churchill J, Craven, Duprey B, Fletcher, Greeley, Jacobsen, Marraché, McGlocklin, McKee, McKenney, Mills J, Murphy, Norbert, Patrick, Percy, Perry A, Perry J, Piotti, Sampson, Smith N, Sykes, Usher.

Yes, 58; No, 68; Absent, 25; Excused, 0.

58 having voted in the affirmative and 68 voted in the negative, with 25 being absent, and accordingly the motion to **RECEDE AND CONCUR FAILED**.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Gray, Representative Austin.

Representative **AUSTIN**: Mr. Speaker, Ladies and Gentlemen of the House. I urge you to oppose the pending measure. The original piece of legislation would have allowed those small businesses that we spoke about just a day or two ago who have started to enter into agreements prior to March 1, 2004 to be able to have until October 1st to set up the agreement with all concerned parties. This is the last piece of the bottle bill that enacts the procedures of understanding between distributors, initiators of deposit, pick up contractors and the redemption centers. Those not in the agreement and working towards implementation would be paying the redemption centers the extra half cent and those unclaimed deposits would go to the Maine Revenue Service as a float to help support the supervision of this program. There has been a lot of work around this entire subject matter and the original focus of all of this is for the environmental concerns. I urge you to follow my light and I ask for a roll call.

Representative **AUSTIN** of Gray **REQUESTED** a roll call on the motion to **ADHERE**.

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

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Biddeford, Representative Sullivan.

Representative **SULLIVAN**: Mr. Speaker, Ladies and Gentlemen of the House and certainly for the good Representative from Belmont, Representative Berry, it was not my intention to have to stand and speak on this on a second vote. It has been made necessary. Seriously, this bill was designed as a carry over vehicle like most of you do to correct any of the mistakes or anything that might have happened as we implemented something last year from LD 985.

If you notice the name of this, it is to increase returnable beverage container redemption rate. That is the name of the bill. That was the intention of this bill. When it came to the committee and it was voted on and then brought into the committee while I was gone and revoted. We are simply asking that of all the things, this goes down now to the other chamber and they certainly can put on the amendment. The amendment that I put on that would have done just one thing for the redemption

centers was stripped off. It has come back to us now without that amendment. I cannot offer the same amendment in the exact same words, but I am prepared to offer another amendment with some different words if need be. I simply ask you to pass this and let the other side decide if they want to put our amendment back on in order to make one piece whole, the people that have no lobbyists here fighting for them, no one grabbing our attention. They are back collecting bottles to make the Maine Bottle Bill work.

It simply will go to the other body and they may be able to put back the amendment that was stripped off. It is the only thing I want to do. It is my intention. I would like very much to see this go down and allow all of the other extensions to October 31st to remain, except for the redemption centers, which is the name of this bill, to increase returnable beverage container redemption rates. That is all this bill would do if we could get it back to the position that it was in. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Arundel, Representative Daigle.

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. I have tried to be a student of parliamentary procedures up here. I just would like to observe that the posture of the bill on this particular motion is to Adhere, meaning if it is not accepted, then the bill is dead. I am not really familiar with this bill, but I am sure there are many things in this bill that we are all trying to accomplish. What we have here is a situation where getting half a loaf may be better than getting none. I will point out to you that the motion could have been Adhere and Ask for a Committee of Conference suggesting there was a willingness to compromise and sit down and negotiate this. That was not the case. The case it take it this way or take it no way. I am concerned that at this late date how we would feel if we received a bill in this posture. I think I know exactly how we would handle it. I would encourage this body to oppose the current motion so that there might be a chance better than the chance offered right now that something would pass. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Freeport, Representative Bull.

Representative **BULL**: Mr. Speaker, Men and Women of the House. Just to clarify, if we Adhere on this bill, it goes back down to the other body. The other body at that point could Recede and Concur, which would keep the bill alive. Thank you Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Gray, Representative Austin.

Representative **AUSTIN**: Mr. Speaker, Ladies and Gentlemen of the House. Let me add my words of concern. If we go with the previous motion, there is a high likelihood that all of this good work could be lost and go away. I think we need to consider some compromise and remember that there are some important pieces in here that do protect the very small bottlers and vintners. I just ask you to consider the whole consideration around this. Again, the bottle bill, all the work and all the assets that this entire program has brought to our state and with the Department of Agriculture now involved, let's not lose this. I move we Insist and ask for a Committee of Conference and a roll call. Thank you Mr. Speaker.

The same Representative moved that the House **INSIST** and **ASK** for a **COMMITTEE OF CONFERENCE**.

The same Representative **REQUESTED** a roll call on the motion to **INSIST** and **ASK** for a **COMMITTEE OF CONFERENCE**.

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Biddeford, Representative Sullivan.

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. I fully support the move to Insist and ask for a Committee of Conference. It is my desire to move this forward. I do want to say that as far as the protection for the small wineries, we put that into the omissions and errors bill because it was the intention of 985. We protected the microbreweries. They do not have to pay this. We protected certain water bottling up to a certain capacity. They are all protected. We have taken care of that piece of this already. It is my desire to do this. My desire to compromise was the reason I put the amendment on first. It only did one thing. I would hope that the entire body could vote to Insist and ask for a Committee of Conference.

I would be more than happy to support that. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Gray, Representative Austin.

Representative **AUSTIN**: Mr. Speaker, Ladies and Gentlemen of the House. Let me graciously correct the good chair, Representative Sullivan, the omission of the small winers and bottles was not put in an errors and omissions bill. That was the original intent, but to my knowledge while the good Representative was away, that move was changed and it was worked back into the original motion. Let's protect these folks. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Biddeford, Representative Sullivan.

Representative **SULLIVAN**: Mr. Speaker, Ladies and Gentlemen of the House. I quickly turned around to check with the lobbyist who represents the spirit company and he indeed tells me it was put into the errors and emissions bill. It was something we had worked on. I would say that I have shown at least one member of this House from the other side of the aisle the exact wording. Based on the fact that I was gone and many strange things did happen, I agree with that, but I did turn for confirmation to the lobbyist who is sitting in the gallery now. It is there. I do want to move this forward, sit down and talk about it. I have only one concern and it is for the people that are not here, the redemption, the stores, for a half penny more. I am more than willing to compromise on any piece other than that. Thank you very much. I hope we can positively move this forward.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brewer, Representative Rogers.

Representative **ROGERS**: Mr. Speaker, Ladies and Gentlemen of the House. We have spent two years of my term here and many, many days and months prior to that. I think at this time it is about time that we moved the motion that is on the floor and get it into conference where it can be discussed in a gentlemanly way and come to a conclusion that will benefit all people. This is not just about the redemption centers or the distributors. There are a lot of stakeholders in this. I personally sat through many, many evenings of long discussion. There is a lot of controversy on one side and on the other. Having gone to my local redemption centers, they are doing far better than the ones down in southern Maine from what they tell me. Let's get it to committee and get this thing put to rest. Thank you.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is to Insist and Ask for a Committee of Conference. All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 505

YEA - Adams, Annis, Ash, Austin, Barstow, Beaudette, Bennett, Berry, Berube, Bierman, Blanchette, Bliss, Bowen, Bowles, Brannigan, Breault, Brown R, Browne W, Bruno, Bryant-Deschenes, Bull, Bunker, Campbell, Canavan, Carr, Churchill E, Clark, Clough, Collins, Courtney, Cowger, Cressey, Crosthwaite, Cummings, Curley, Daigle, Davis, Dudley, Dunlap, Duplessie,



Duprey G, Earle, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Glynn, Goodwin, Grose, Hatch, Heidrich, Honey, Hotham, Hutton, Jackson, Jennings, Jodrey, Joy, Kaelin, Kane, Ketterer, Koffman, Landry, Ledwin, Lemoine, Lerman, Lessard, Lewin, Lundeen, Maietta, Mailhot, Makas, Marley, McCormick, McGlocklin, McGowan, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Moore, Muse, Norton, Nutting, O'Brien J, O'Brien L, O'Neil, Paradis, Peavey-Haskell, Pellon, Percy, Pineau, Pingree, Rector, Richardson E, Richardson J, Richardson M, Rines, Rogers, Rosen, Saviello, Sherman, Shields, Simpson, Smith W, Snowe-Mello, Stone, Sukeforth, Sullivan, Suslovic, Tardy, Thomas, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Usher, Vaughan, Walcott, Watson, Wheeler, Woodbury, Wotton, Young.

NAY - NONE.

ABSENT - Andrews, Churchill J, Craven, Dugay, Duprey B, Eder, Fletcher, Greeley, Jacobsen, Marraché, McKee, McKenney, Murphy, Norbert, Patrick, Perry A, Perry J, Piotti, Sampson, Smith N, Sykes, Mr. Speaker.

Yes, 129; No, 0; Absent, 22; Excused, 0.

129 having voted in the affirmative and 0 voted in the negative, with 22 being absent, and accordingly the House voted to **INSIST** and **ASK** for a **COMMITTEE OF CONFERENCE**. Sent for concurrence.

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#### SENATE PAPERS

The following Joint Resolution: (S.P. 814)

#### JOINT RESOLUTION RECOGNIZING THE CONTRIBUTIONS OF FOSTER FAMILIES

WHEREAS, stable homes help provide a wholesome environment for the healthy growth of children; and

WHEREAS, children whose homes lack the love and nurturing necessary to create a wholesome environment are provided this love and nurturing by foster families; and

WHEREAS, the goal of a foster family is to provide a safe, secure and stable home along with concern, understanding and nurturing; and

WHEREAS, foster families, who open their homes and hearts to children whose families are in crisis, often play a vital role in helping children and families heal and reconnect; and

WHEREAS, foster parenting is a difficult but rewarding profession that requires hard work and good communication, understanding and decision-making skills; and

WHEREAS, foster parenting often requires the commitment of the entire foster family; and

WHEREAS, Governor John E. Baldacci has officially proclaimed the month of May 2004 as Foster Families Month in recognition of the efforts of these very special families; now, therefore, be it

RESOLVED: That We, the members of the 121st Legislature now assembled in the Second Special Session, on behalf of the citizens we represent, join Governor John E. Baldacci and others throughout the State in expressing our heartfelt appreciation to the individuals and families providing foster care services in our State; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to Commissioner of Human Services John Nicholas and to Adoptive and Foster Families of Maine, Inc. as an expression of our esteem.

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

**READ** and **ADOPTED** in concurrence.

#### SENATE PAPERS

##### Non-Concurrent Matter

An Act To Establish the Maine Military Family Relief Fund

(S.P. 631) (L.D. 1699)

**PASSED TO BE ENACTED** in the House on March 30, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-438)**)

Came from the Senate with the Bill and accompanying papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**. **ORDERED SENT FORTHWITH**.

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##### Non-Concurrent Matter

An Act To Streamline the Sales Tax Credit for Worthless Accounts To Eliminate Unnecessary Burdens on Certain Maine Businesses and Consumers

(S.P. 646) (L.D. 1714)

**PASSED TO BE ENACTED** in the House on April 13, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-451)**)

Came from the Senate with the Bill and accompanying papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**. **ORDERED SENT FORTHWITH**.

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##### Non-Concurrent Matter

An Act To Recruit and Retain College Graduates through Loan Repayment

(H.P. 1387) (L.D. 1864)

**PASSED TO BE ENACTED** in the House on April 5, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-794)**)

Came from the Senate with the Bill and accompanying papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**. **ORDERED SENT FORTHWITH**.

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The Speaker resumed the Chair.

The House was called to order by the Speaker.

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##### Non-Concurrent Matter

Resolve, Directing the Joint Standing Committee on Taxation To Study the State's Participation in the National Streamlined Sales and Use Tax Agreement and Report Legislation Necessary To Bring the State into Conformity with That Agreement

(H.P. 552) (L.D. 746)

(C. "A" H-672)

**FINALLY PASSED** in the House on April 5, 2004.

Came from the Senate with the Resolve and accompanying papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

On motion of Representative LERMAN of Augusta, the House voted to **RECEDE AND CONCUR**.

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The House recessed until the Sound of the Bell.

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(After Recess)

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The House was called to order by the Speaker.

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At this point, pursuant to his authority under House Rule 401.1, the Chair assigned Representative SMITH of Monmouth to Seat 52 and Representative NORBERT of Portland to Seat 142.

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**SENATE PAPERS**

**Non-Concurrent Matter**

An Act To Increase Maine's Minimum Wage

(S.P. 237) (L.D. 673)

**PASSED TO BE ENACTED** in the House on April 12, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-359) AND SENATE AMENDMENT "A" (S-491)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-359) AS AMENDED BY SENATE AMENDMENT "A" (S-563)** thereto **AND SENATE AMENDMENT "A" (S-491)** in **NON-CONCURRENCE**.

Representative COLWELL of Gardiner moved that the House **RECEDE AND CONCUR**.

Representative TREADWELL of Carmel **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. 506**

**YEA** - Adams, Ash, Barstow, Beaudette, Bennett, Blanchette, Bliss, Brannigan, Breault, Bull, Canavan, Clark, Cowger, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Finch, Glynn, Goodwin, Grose, Hatch, Hotham, Hutton, Jackson, Jennings, Kane, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marraché, McGlocklin, McKee, McLaughlin, Mills J, Norton, O'Brien L, Paradis, Pellon, Percy, Pineau, Pingree, Richardson J, Rines, Saviello, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Twomey, Usher, Walcott, Watson, Wheeler, Wotton, Mr. Speaker.

**NAY** - Andrews, Annis, Austin, Berry, Berube, Bowen, Bowles, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Clough, Collins, Courtney, Crosthwaite, Curley, Daigle, Davis, Heidrich, Honey, Jodrey, Joy, Kaelin, Landry, Ledwin, Lewin, McCormick, Millett, Moore, Muse, Nutting, Peavey-Haskell, Rector, Richardson E, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Woodbury, Young.

**ABSENT** - Bierman, Brown R, Bunker, Churchill J, Craven, Cressey, Dugay, Duprey B, Faircloth, Fischer, Fletcher, Gagne-Friel, Gerzofsky, Greeley, Jacobsen, Maietta, Marley, McGowan, McKenney, McNeil, Mills S, Moody, Murphy, Norbert, O'Brien J, O'Neil, Patrick, Perry A, Perry J, Piotti, Sampson, Sykes, Tardy.

Yes, 67; No, 51; Absent, 33; Excused, 0.

67 having voted in the affirmative and 51 voted in the negative, with 33 being absent, and accordingly the House voted to **RECEDE AND CONCUR**.

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**Non-Concurrent Matter**

An Act To Encourage and Support Maine Small Businesses

(S.P. 427) (L.D. 1325)

**PASSED TO BE ENACTED** in the House on April 12, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-486)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-486) AS AMENDED BY SENATE AMENDMENT "A" (S-562)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

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**Non-Concurrent Matter**

An Act To Promote the Production and Use of Fuels Derived from Agricultural and Forest Products

(H.P. 1089) (L.D. 1492)

**PASSED TO BE ENACTED** in the House on February 10, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-641)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-641) AS AMENDED BY SENATE AMENDMENT "A" (S-564)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

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**Non-Concurrent Matter**

An Act To Join the Interstate Insurance Product Regulation Compact

(S.P. 630) (L.D. 1698)

**PASSED TO BE ENACTED** in the House on March 2, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-389)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-389) AS AMENDED BY SENATE AMENDMENT "A" (S-565)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

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**Non-Concurrent Matter**

An Act To Provide Equity in Veterans' Property Tax Exemptions

(H.P. 1268) (L.D. 1746)

**PASSED TO BE ENACTED** in the House on March 17, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-725) AND HOUSE AMENDMENT "A" (H-742)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-725) AND HOUSE AMENDMENT "A" (H-742) AND SENATE AMENDMENT "A" (S-566)** in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

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**Non-Concurrent Matter**

An Act To Promote Responsible Pet Ownership

(H.P. 1285) (L.D. 1763)

**PASSED TO BE ENACTED** in the House on March 11, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-727)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-727) AS AMENDED BY SENATE AMENDMENT "A" (S-567)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

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**Non-Concurrent Matter**

An Act To Expand Maine's Homestead Exemption for the Blind

(H.P. 1316) (L.D. 1794)

**PASSED TO BE ENACTED** in the House on March 9, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-724)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-724) AS AMENDED BY SENATE AMENDMENT "A" (S-568)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

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

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

**HOUSE DIVIDED REPORT - Majority (6) Ought to Pass as Amended by Committee Amendment "A" (H-966) - Minority (5) Ought to Pass as Amended by Committee Amendment "B" (H-967) - Committee on AGRICULTURE, CONSERVATION AND FORESTRY on Resolve, Regarding Legislative Review of Chapter 23: Standards for Timber Harvesting To Substantially Eliminate Liquidation Harvesting, a Major Substantive Rule of the Department of Conservation (EMERGENCY)**

(H.P. 1466) (L.D. 1962)

Which was **TABLED** by Representative PINEAU of Jay pending his motion to **ACCEPT** the Majority **Ought to Pass as Amended Report**.

The **SPEAKER**: The Chair recognizes the Representative from Lincoln, Representative Carr.

**Representative CARR**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to take a while to explain a few things. This has been a very important issue. It actually started six years ago when I first went on the Agriculture, Conservation and Forestry Committee. It is a subject that has been discussed many times without background. I think that at least now we have a basic understanding of what we are dealing with. Six years ago when I first came, we had people coming before the committee and really making statements as to the amount of harvest that has been going on that we would consider liquidation harvesting. My question back then was, if we don't have a definition of what liquidation harvesting is, how can we possibly know exactly how big the problem is? Over a period of a couple of sessions, we were able to work with and establish a definition. The definition was not easily come by, but many people had input. We did come up with a definition. Along with that, we asked that the Maine Forest Service go out and conduct a survey as scientifically as they could to establish what amount of problem actually existed.

As a result of that, the Forest Service did come back with some rules and we have been working on those for a number of weeks now with public hearings. The rules have gone out to public hearing by the Forest Service. We have held public hearings and also work shops.

After the rules came to the committee, the rules were put in as provisional. Changes had been made from the time the public hearing had gone out to the public by the Forest Service and then they came back and were sent out to be provisionally accepted. The committee has agreed on several issues. Number one,

there is a problem with liquidation harvesting. The liquidation harvesting is not an acceptable practice in the woods. Where our disagreement comes up is, how do we address that problem? The Majority Report that is before you is an 800-pound gorilla trying to deal with a field mouse. We have a 2 percent problem according to a scientific study, as scientific as it can be, by the Forest Service that said we have a 2 percent problem in the entire forest of the State of Maine. If you look at the amount of wood that is harvested each year and you multiply that over a number of years, it seems like it would be a lot. That is not taking into consideration the fact that the woods does regenerate itself and it does grow. Just because you cut a tree, it doesn't mean it is gone forever. There is another tree there to grow and take its place.

When the committee began discussing the issue with the Department of Conservation and the Maine Forest Service, we had quite a few discussions. One of those discussions is, is there a fiscal note on this? We were told that there was not a fiscal note. Along the way I was able to come up with an interdepartmental memo to the Director of the Maine Forest Service from one of the people in his office. I just want to read a little bit of that internal memo, which said, "We have consulted with field staff and developed a fiscal impact statement for the proposed liquidation harvesting rule under several compliant scenarios. We believe that under the best of circumstances, adequate enforcement of the new rule would require a minimum of nine additional positions. Although closer to double that seems to be more realistic. This estimate covers only those additional positions necessary for developing an enforcement action. In reality, many more acres would be cruised for compliance and eliminated from further action. Therefore, this estimate is extremely conservative." Bear in mind that we still have no fiscal note.

With that, I inquired a bit further. The department was very forthright and explained exactly what would be necessary in order to put that into perspective and actually start conducting enforcement. I was struck by one of the ideas on how this would be done. The example used was the State Police know that a lot of people speed and if the speed limit is 65 and people are traveling 75, then they may not bother with the people traveling 75, but they may bother with the people doing 95.

I know that a little earlier I passed out forest ranger duties. It is a yellow sheet. I hope that people took time to look at that. It tells you about some of the duties that the Maine Forest Service must do.

I think that we have to be very careful up on stretching the forest rangers and the other people who work in the department to the point where they are really ineffective in doing any of the duties. I believe that with this Majority Report that is exactly what we are doing. We are going to have to ring them out from doing some of the duties they do already, which is education, dealing with loggers, trying to train them so they do operate in the proper manner. They are charged with fighting forest fires and it just so happens at least for the people who are on the committee and maybe the rest of you get this too, but from time to time the forest rangers are very proud of the job that they do. They try to make us aware of that. When they have a timber harvesting theft case, they send an e-mail telling us about that case.

Just recently, within the last week, I received an e-mail from the Forest Chamber Chapter stating that over the previous weekend they had had 35 wildfires that they had to deal with. I am concerned about the safety of the forest through forest fire. It is possible that if we pull these rangers out and give them other duties that we could actually lose more forest by forest fires than

we are by liquidation harvesting. We need to be very careful of unintended consequences.

Last weekend I received a call on Sunday afternoon from a constituent of mine. I believe he is a constituent. He told me that in the front seat of my pickup truck I would find a set of petitions out there from loggers and people opposed to the rules that had been provisionally accepted. As I went through those, those people who signed those petitions are employers in most cases. Some of them are one or two person skidder crews, but for the most part they are employers. They employ other people. If I added all those up with the number of people they employ, there is over 1,000 people who are employed in the woods in just that short period of time that would be affected.

I know that you are going to be hearing a lot more testimony. I don't want to drag this on any longer than you do, believe me. I do want to make a point. This is a very, very important issue to not just my constituents, but for your constituents and the future of the State of Maine. This is about people who live and work in the woods being regulated by people who do not live in the woods. I want to try to put it in as simple terms as I can because, like you, I am not a forester. I worked in the woods for a short period of time out of necessity, not because I chose to. I want to put it in a little perspective that you we can all understand. Trees are like a garden patch of carrots. I tell you that you can only pick certain carrots. I go on further and I tell you I am going to select which carrots that you can pick. To me, that is not the proper way to raise a garden. I don't believe it is a proper way to raise a forest.

Another way of looking at the difference between the two reports is one of those, the Minority Report, is written in English dealing with standards that loggers already use, but it raises the bar. They have to cut their wood at a higher level than what they do if they are just going to cut it regularly. It is a much higher standard. The Majority Report is written in a foreign language and the loggers are going to need an interpreter. That is the difference between the two reports. They both deal with liquidation harvesting. One is a common sense approach that will allow people to continue to make a living and the other one is questionable.

I want to share with you a situation. In the last few days we have been meeting and we have been trying to come to an agreement because we understand that it is a very serious issue. We want to stop liquidation harvesting. We all want to do that. Again, our difference is, how are we going to do that?

I have a company that is based in Lincoln and Millinocket. They run a chip mill and a lumber mill. They employ 170 people. Presently they own land in the upper reaches of Penobscot County near Patten that is bordering onto land that a person from out of state has recently purchased and put everybody off limits. You can no longer go there. The Maine snowmobile trail goes through there, but she has apparently stopped people from going there. There is also a lodge there. The people who own that lodge will not be able to get to their own lodge. This company that I am talking about and is in Lincoln is now working with the Department of Conservation, working with the individual who bought that township on the land transfer for the better of the State of Maine. It is possible that the State of Maine could be involved in their first case of liquidation harvesting. Thank you Mr. Speaker.

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Under suspension of the rules, members were allowed to remove their jackets.

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The SPEAKER: The Chair recognizes the Representative from Wayne, Representative McKee.

Representative MCKEE: Mr. Speaker, Men and Women of the House. At first I would like to thank my good colleague on the committee, Representative Carr, for his remarks. I respect the good Representative and know that he has put in a lot of hours on this, just as all of us on the committee have. He, too, wants to eliminate liquidation forestry. However, we differ on the manner that we would go about doing that.

Let me start back at the beginning. This Resolve, in my opinion, represents the culmination of not just one year's work, but years of work here in this Legislature to address the problem. From the time I began eight years ago and through serving six years on the committee and two years as the chair, I have heard and read endless reports of this abusive forest practice and its effects, not just on loggers, but on communities, communities in central Maine, western Maine, York County, southern Maine, down east, all the way from border to border, as well as its effects on the environment and the future of our forest. To those people who don't believe that this is a threat to our forest, I would echo the words of one of my won constituents, a renowned economist and forestry consultant who said, "It is like termites. How many do you have to see before you decide to do something about them?"

Last year we took the first step. We defined liquidation harvesting. As Representative Carr said, we asked the Forest Service to adopt rules to substantially eliminate liquidation harvesting according to the statute, the forest stewardship statute proposed by the Chief Executive that would include without limitation increased professional involvement in planning and implementation of timber harvesting activities in forest lands, straight from the law. That statute further directed that the rule required timber harvesting activities be conducted with attention to long-term forest management principles and that the rule include appropriate exemptions for certain landowners and land managers.

Finally, the law said that the rules should determine legal responsibilities for compliance. We will be talking about all of those this afternoon.

That public process was exhaustive. The Maine Forest Service identified a stakeholder group of 14 individuals representing a wide range of interest from landowners, loggers, foresters, conservation groups and staff from the Maine Forest Service with a review by the Inland Fisheries and Wildlife. I have in my hand a list of the stakeholders group and that group was represented on several persons, the loggers who are represented by several persons on that stakeholders group.

These people along with numerous observers and advisors worked for a year to review technical and scientific data, to formulate and evaluate policy options and to evaluate the rules. They went out to public hearings held in three places and approximately 60 people attended those that testified. During the comment period, the Forest Service received some 400 comments on the proposal ranging from encouragement to make the rule more restrictive to opposition to elements of the proposal.

Finally, after the changes had been made, that rule was brought to the committee and the public hearing was held just last week on the revised rule. Our committee then examined the rule in light of the public comments and made additional changes. Therefore, the Majority Report is, as amended, I believe, a true major step toward removing that irresponsible, unsustainable, forest practice that we call liquidation forestry.

We believe that the proposed rule as amended targets narrowly the behavior of greatest concern. It targets a specific activity that takes place under defined circumstances and hence

affects only a small portion of the over 500,000 acres harvested every year in Maine.

On all of your desks is a summary of the provisions of the rule. You will also see the findings of national regarding economists who report that the overall net economic affects of the rule be minimal. The large population of responsible landowners and land managers will benefit from this rule as they will begin to experience a more even economic playing field. We will all benefit from improved forest practices, as well as a brighter future for long-term forest management and for greater stability in our communities. If you look at that closely, you will see that list of appropriate exemptions.

Also, I would like to address a comment that was made by the good Representative that you needed an interpreter to read the Majority Report. I want the body to know that just in the last three days the department has spent innumerable hours and effort in trying to work with those in the minority in order to develop a report to bring to this body.

In my opinion if you look at the summary, you can see that it is very readable. It is readable to lay people as well as to loggers. In my opinion, the people who were on the stakeholders group certainly had an opportunity to as we developed the rule to make certain that it was very clear.

In closing, I want to say this is about the people who not only live in the woods, but the people who live in our communities. Long ago and for hundreds of years, lots of people bought land, cut it hard, made some money, but they kept it in long-term forest management. Across the state unfortunately we have a black eye. That black eye is made up of those who buy, cut hard, subdivide and sell. That is hurting all of us. This Resolve is a good step toward, in my opinion, good forestry and will begin to substantially eliminate liquidation forestry. Thank you.

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Representative DAVIS of Falmouth assumed the Chair.  
The House was called to order by the Speaker Pro Tem.

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

Representative **TRAHAN**: Mr. Speaker, Men and Women of the House. I would like to thank the Ag Committee for their hard work on this very delicate and controversial issue of liquidation harvesting. It has been a problem that has plagued the forest products industry for years. Many in the industry and within the Legislature have tried to grapple with the issue and get their arms around it. Just the act of defining liquidation harvesting and coming forward with a solution to it is really a triumph. I would like to thank them for their efforts.

I believe this legislation and the rules before us have a lot of merit on both sides, but there are some things within the rules that are a concern. I will address them today and hope that the committee might consider fixing the problems. For those who don't know, I have been a logger in the industry for 21 years and I think I have a pretty good feel for just how people might get around this legislation. First of all, I would like to say as a logger when you approach a landowner and ask them to cut their wood, you really have a trust in each other that you will do a good job. Often times there are contracts involved, but most of the time you have to trust each other. If these rules were adopted, I believe small loggers, in particular will be put in jeopardy because they would have to trust that the landowners would not sell their property within five years.

When someone harvests a lot, the landowners is in control. They are the boss. It is their property and the trees belong to

them. If a landowner says to me that I want you to harvest 10 acres and I want you to cut it all, you do that because that is what the landowner wants. What happens when someone purchases a piece of property and I ask them to harvest their lot and I ask them, when are you going to sell this land? They say that they are going to keep it for 10 years. What happens if in two years they decide to sell it? Under this legislation it appears that I, as the small logger, would be responsible for some of the damages done on that property. I think that section of the rules needs to be fixed to put in some protections and some sort of contract process for the process that would occur between the landowner and the logger.

Secondly, for any forest practices to change, I believe that you have to have buy in from all the people involved. It appears that the industry is willing to adopt some standards to address liquidation harvesting. It is really the industry that will enforce through their purchasing practices any new liquidation harvesting rules. I will give you an example of what might happen on one of my lots when I am harvesting wood. I sell my wood to Mead in Rumford. They often send a forester down to my woodlot to make sure that I am cutting properly. If I am not, they will not buy my wood, plain and simple. If we adopted the Minority Report, I believe you would get the buy in from the industry to enforce liquidation harvesting rules through their purchasing processes. That is the most effective.

For those of you who watched the CLP, the Certified Logging Program, that was first implemented, that was implemented through industry. Whether I liked it or not, the reason that this program was effective was because industry bought into it and they enforced it through their purchasing process.

I think that the interested parties are very close to coming to an agreement on something that could be supported by the industry and enforced through industry. That is why I am going to support the Minority Report for now. I hope that some more work can be done and a better proposal can come forward. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Monmouth, Representative Smith.

Representative **SMITH**: Mr. Speaker, Men and Women of the House. I am asking you to support the pending motion to accept the Majority Report. This process of developing rules is not about forestry. It is about a business practice of liquidation harvesting. Sometimes that gets lost in the discussions. It is about the practice of buying a piece of land, hitting it just as hard as you can, cutting the wood, then selling it again, usually subdividing it into smaller pieces. It is not about forestry. It is a business practice.

Let me talk briefly about the economic impact and let me tell you emphatically that this will not harm responsible loggers and landowners. This will help achieve sustainability in the long-term for the forest products industry in this state. Those who practice liquidation harvesting make it difficult to compete for those who do not. If you have a logger who wants to buy a piece of land with the intention of cutting some and retaining ownership in the land, he cannot offer a cash value as high as someone who is going to strip it and re-sell it. The people who practice responsible business practices and responsible forestry will benefit with these rules in effect.

This is also part of a bigger effort. If you remember last June, I think it was, the state made an important announcement about dealing with green certification, placing a goal for the State of Maine to have any other state of lands and green certification and the state's lands are green certified. This is seen as a key marketing rule by the state, number one, and also by industry. Industry understands that the world is changing and that their

customers demand sustainably raised forests. This is part of that effort.

There is another part of the rules as well, a separate part, that hasn't raised this level of contention on incentives. I want it to be clear that this is, as they say, the carrot and stick approach. We are dealing with the stick now. The carrots went through very easily. There are incentives for people who choose not to practice liquidation harvesting business.

I also want to point out the issue of getting buy in from the industry. I am befuddled that the good Representative from Wayne discussed the fact that the Majority Report reflects the work of the Forest Service for the stakeholders group that met, I believe, 10 times over the course of about six months, day long meetings, working very hard to achieve consensus. The Maine Forest Products Council and individual members were part of those efforts. They were listened to. Their ideas were brought into the process. Literally at the last minute they presented what you have for the Minority Report, their own set of rules. What befuddles me is the majority of the Maine Forest Product Council members are exempt. It was mentioned earlier that there are 12 exemptions. You can buy, cut and sell within five years if you meet one of the 12 exemptions. Maine Forest Products Council does so, so why are they opposed to the rules? I honestly don't know.

I also want to respond to the 2 percent is no big deal argument which we have been hearing all along. My concern is it is the way you look at things. We have had discussions in the halls recently about a 1 percent increase in the sales tax. I have heard it referred to as a penny. It is only a penny increase. I have also heard it referred to as a 20 percent increase in our sales tax. Which is it? The 2 percent is also 14,000 to 16,000 acres per year. Picture that and also realize it is accumulative. That is 14,000 to 16,000 acres every year. Let me tie into that with the discussion point that trees grow back. Absolutely. In Maine you never have to worry about trees growing back. Ask a farmer who has hayfields. Trees grow in Maine. It is not an issue.

Again, I touch on the fact that liquidation harvesting is a business practice. What they do when they subdivide and sell the land is pull the land out of timber production entirely. No longer is that 1,000-acre piece going to be there to cut. Even if they cut it hard, it will come back in 50 years. You will have something. In 70 or 80 years you will have more, but it will be there. If you take 1,000 acres and you chunk it into 20 acre pieces that are sold primarily to people who want a piece of Maine, it is not going to be harvested again in the future. It is not going to be feasible for a small logger to come in on a long dirt road in that 1,000 acres to get to that 20-acre piece and generally the people who buy a 20 acre piece of Maine aren't interested in timber harvest. This is about long-term sustainability, keeping the land base together. Fourteen to 16,000 acres per year does accumulate.

There are few businessmen who are damaging Maine's forest industry by practices this. They are the minority, but they are 14,000 to 16,000 acres a year. That is a minimal estimate as well. I believe the Representative from Lincoln mentioned a study that was done to reflect on exactly how big a problem it is. You have a five-year window for the purchase and sale. We haven't reached the end of that five-year period so far I believe three years into it we have reached the 2 percent. There is potential for it to go up. The Forest Service believes it may go up as high as 10 percent. Regardless, it is the same analogy. Is it a penny or is it 20 percent? Is it 2 percent or is it 14,000 to 16,000 or more acres per year?

The rules that were developed by the department with the stakeholder group over a six-month period and daylong meetings were developed through a creative and intensive process. I was amazed by the consensus that they were able to reach. It is targeted very narrowly only to address those businessmen who practice the business practice of liquidation harvesting. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wilton, Representative Saviello.

Representative SAVIELLO: Mr. Speaker, Ladies and Gentlemen of the House. This debate is actually good news with all that has been said so far. We are not debating over whether we are going to do something or not. One way or the other with the Majority or the Minority Report, something good is going to happen in the woods. In a minute I am going to go through some of the devil in the details. You are right. The sheet that was passed out looks very clean and very simple. When you get to the details, it becomes very difficult to comply with. Before I do that, I want to tell you a little bit about my background. Some of you may think that I am an engineer from my past debates on dissolved oxygen and waste treatment and so forth. First off, I have a BS degree in forestry. I have a Master's Degree in forestry from the University of Maine. I have a PHD in forest resources from the University of Maine. My career started as a research forester and later became the manager of forest productivity and research at the Northern Forest Research Center in Bangor. I did that for 13 years. Part of my responsibilities and my primary responsibilities were to develop site selection guides using stocking guides as one of the tools to decide on how we were going to manage the forest stand. Today, the devil we see in the details of this plan become difficult.

Let me address one little side thing before I get into that. It is my understanding that there was a tremendous public process in doing these rules. That was great. However, the rules themselves written, if I understand it correctly, did not become available until about two weeks ago. That is why people had the opportunity to start to react.

First of all, I want to talk about the stocking guide. That is the driver of this. The good Representative Pingree looked at me when I handed out the stocking guide to you, what you have, what you have on your table, which is the yellow sheet, to show you how simple it is. She looked at that and said, "You don't expect me to read that do you?" No, I don't. However, we are going to use that stocking guide to make the decision on whether this is good forestry or not.

Let me point out to you that it is a guide. We are now making it the rules, not a guide. A guide is to take everything into consideration. We are saying that the basal area, which is the area around the tree, is going to determine whether we are in compliance with the numbers or not. It does not take soils into consideration. It does not take aspect into consideration. As a forester, I used it as one of the tools to decide how well I could cut a forest stand.

The second part in the definition is the definition of high breed. What is the definition of high breed? One of the concerns of this is, I can reduce that basal area all right. I am going to go into the stand and I am going to just take the best trees and I will leave the junk. Sadly, that has happened to a lot of our forests over the last 300 years, not just the last 50 years. What is a high breed? The way they have written it is it is a commercially valuable species. As I spoke to the good Representative Smith about this bill yesterday, on his property 10 years ago he probably would have been in violation of this rule. They left poplar on the stand. I know the good Representative Smith

knows that I did everything I could 15 years ago to get rid of every stick of poplar that was out there because it was a weed. Today it is one of our most valuable species because it can be used in the ground wood process of making paper. In a lot of stands we have a lot of yellow and white birch, small diameter, probably 8 to 10 inches. It used to be very valuable. We had a bold wood industry. We could make toothpicks. We could make tongue depressors. We could make popsicle sticks. They are not here anymore. Are they commercially valuable? To me as a forester they are, but do they have the value today.

The third thing that has happened in this rule is we have defined a new silvicultural term. Silviculture is simply the growing of trees. That is what it is. We have to have very scientific terms. It basically is the growing of trees. When I was in the forestry side of the business, the stocking guide was used to thin the forest, which means you cut some of the trees that are there to leave room for the other trees to grow bigger. The regeneration in the stand, you didn't care about. That was not the purpose of the cut. Regeneration became important when you took all the trees or you started to open the stand up even more so you had better trees growing up over time and your goal was to regenerate the forest. In this rule, we have defined that if you are in a thinning and you damage the regeneration, then you are in violation.

The legal questions were brought up. I want to point out to you in Section L of the bill that it basically defines who the responsible party is, as the good Representative Trahan pointed out. They include potentially the landowner, the landowner's agent, the licensed forester and the harvester, the logger. In the back of the bill under Section 7 where it says that if you violate the rule, it presently reads that all responsible parties may be jointly responsible for compliance with this rule and liable for violations. That means if the logger is on the land, he has cut it because the owner told him to cut it that way and the owner sells it before the five-year window is up, he is in violation. Ladies and gentlemen, we passed a bill that will make that \$1,000 per day fine for a logger operating on that. One of the things this bill also does is create the Complete Employment Act for Certified Foresters. I am a certified forester. This helps me when I leave here. I will be able to get a job, maybe. In the event you have to have a forester to write the harvest plan. The harvest plan is nothing simple. I would ask you to look at the rules and look at the detail that needs to be put into the harvest plan. The forester has to be there to inspect the job while it is going on. The forester has to certify that the harvest is done correctly. I heard the Commissioner of Conservation in the hearing say it wasn't his goal to make this the complete employment act for the forester, but it helps.

The fiscal note, I am not going to go through that as much as Representative Carr did, but let me point out a few things that have come to my attention as we have gone through this. One of the things that the Forest Service participates in is timber trespass. This is where somebody goes onto your land and cuts down the trees. That is real problem in this state. On the same forest ranger's chapter on the Internet, they talk about the fact that they invested in hundreds of complaints dealing with timber trespass in the last year. We need not give up on that to defer those foresters from their responsibilities of what they need to do.

In addition, in the basis statement, and this letter is from SWAM, which is Small Woodlot Owners of Maine, the basis statement says that enforcement will likely result in a detrimental affect of training. Will we be able to train the small woodlot owner on how to better handle his lots? Will we do that for a 2 percent problem?

The reason that I really stand up and testify, the good Representative Smith did say this. It is not the big industries. They can handle it. They have licensed foresters. The reason I bring this to your attention is because I have small loggers in my district and landowners. One of those is a gentleman named Bob Thorndike. Bob supplies wood to the local mills around the area. He has 60 loggers working for him. You multiply that by two, it is 120 people. We are assuming there is some significant other at home. He is from Avon. For those of you who don't know where Avon is, it is about 20 miles northwest of Farmington. Of the thousand voters in that particular area of Avon, Strong and Phillips, he employed 10 percent of that valley. He is concerned about this bill. This gentleman loves his land. His mother told him that no one can ever take the land away from you. He buys it and manages it as a portfolio. However, what he will have to do now is he will have to hire a forester. He will have to become a master logger when he probably already knows more about managing the forest than I do even with a PHD.

The rules in front of you become complicated for him. He spent some time with me talking about that. It adds to his cost of doing business. It means in his mind that it is going to make him face some significant decisions in the future.

Finally, I want to share with you a statement that small woodlot owners sent to the committee, I believe last week. "Let's be clear. We have continually supported efforts to address liquidation harvesting. Liquidation harvesting is counter to what we stand for as an organization. What is the net affect of implementing these rules on the overall management of the forest? We must be sure that we are not trading one problem for another." Thank you Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lincoln, Representative Carr.

Representative CARR: Mr. Speaker, Ladies and Gentlemen of the House. I want to touch upon a couple of things that have been said. One, the Representative from Waldoboro, Representative Trahan, had mentioned the possible liability to loggers if they came in and harvested and really didn't understand that the land would be sold within a five-year period. I just want to say that those on the minority side realized that. We addressed it. It is in that report.

I also want to touch upon the Majority Report and how you would be able to establish whether or not a liquidation harvest had actually been conducted. One of the ways included is they have to count stumps. I know that everybody understands that a stump comes from a tree that has been cut. In northern Maine and many other areas around Maine, snow comes in late November or December, but during the wintertime those stumps are covered. If the Forest Service receives a complaint of liquidation harvesting in December in order to count those stumps and ascertain whether or not we actually have a liquidation involved here, they will have to wait until late April or May in order to even establish whether or not we have a violation here. I think that this is a very important reason to turn down the Majority Report. With that Mr. Speaker, I would move that we Indefinitely Postpone the Majority Report and ask for a roll call.

Representative CARR of Lincoln moved that the Resolve and all accompanying papers be **INDEFINITELY POSTPONED**.

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** the Resolve and all accompanying papers.

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

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Jay, Representative Pineau.

Representative **PINEAU**: Mr. Speaker, Ladies and Gentlemen of the House. I am on the Agriculture, Conservation and Forestry Committee and sat through numerous hours of work session and public hearing on these rules. For the work that went into these rules, the stakeholders worked for nine months putting together this package and only at the very end was there a division within the stakeholder group. I work in a paper mill for one of the largest landowners in the State of Maine and asked my industry if these rules would affect their harvesting at all? I was told that it doesn't affect them because their lands are all certified lands.

The biggest concern that I had during the work sessions and public hearings were from the small woodlot owners. Through most of the work sessions, the Small Woodlot Owners of Maine were opposed to the Majority Report. The department, through the administration adjusted the rules and in the final vote I met with the past president of the organization and asked them if they were comfortable with these rules and they indicated that they were. This alleviated any fears that I had that we are going too far with the rules.

The problem of liquidation harvesting has been addressed in these rules. I would ask you to defeat the present motion and move onto the Majority Report.

Subsequently, Representative **CARR** of Lincoln **WITHDREW** his **REQUEST** for a roll call.

Subsequently, Representative **CARR** of Lincoln **WITHDREW** his motion to **INDEFINITELY POSTPONE** the Resolve and all accompanying papers.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Wayne, Representative McKee.

Representative **MCKEE**: Mr. Speaker, Men and Women of the House. Just to answer some of the things that have been asked and to refute a couple of things that have been said. First, I would like to address the topic of the fiscal note. You don't have a fiscal note on your desk. There is no fiscal note to this bill. I am thinking about bureaus throughout this city. We have had downsizing and downsizing. In the Department of Agriculture we have had people that have had to take over the responsibilities of the Nutrient Management Program. We have had people in Corrections to have to take over responsibilities that are not theirs. In fact, in America today it says that our productivity is at an all-time high. Why? It is because we are doing two and three jobs. Ask your sons and daughters in those jobs. The same thing is happening here in Augusta too. They are doing two and three jobs. The Department of Conservation is going to have to do the same thing. They are going to have to allocate their resources very, very carefully. In their work with our committee, working in good faith, they recognize that this is something that is very important and they are going to make certain that it happens.

A previous speaker alluded to the Minority Report. Mr. Speaker, I would request that if you would, that we ask people who speak after this to refer to only the Majority Report and not what is in the Minority Report.

The harvest plan, yes, that is one of the options, a harvest plan signed by a licensed forester. The speaker before me mentioned a full employment for foresters. Obviously everyone is not going to be able to afford a forester, but if you look on your desk of the summary of proposed liquidation harvesting rules, in the middle it says, "For parcels which are bought, cut and sold within five years and which are not exempt, the provisionally adopted rules require either without high grading, limiting

harvesting to 50 percent of the merchantable size timber as it existed when the parcel was bought or a harvest plan signed by a licensed forester or using a logger or forester who is accredited as successfully completing a training course to be offered by the Maine Forest Service."

This was one of the things that was worked out after hearing some of the comments during the comment period, which, by the way, was more than two weeks. It started at the beginning of April and went through last week.

The department is willing to offer these two day or one day courses that haven't been planned yet. They are willing to do that because they believe, as I believe Representative Trahan said, education is the key. It is always the key to really understanding what is going on. This will be one of the best things that they do. Helping logger to understand it and how they can do it without spending extra money. You notice it goes on to say or, showing a hardship created by an emergency or qualifying for a variance.

Someone mentioned to me that the exemption is a list from heaven. The option list to me is too. You know what it does, in my opinion? It shows a good faith effort on the part of the department to work with the stakeholders to make this happen. There is always give and take. As I said on that stakeholders group, there was a diverse group of people and I feel that the department listened to them.

I also want to address the legal responsibilities. I am going to read from the basic statement, because I can't put my hands right now on the rule, but it refers to joint and several liability. The statement that is made there is a statement that is used even with the Forest Practice Act. I am going to read from the basic statement, Page 3, that talks about that particular part. The statute that we passed last year required that the rule apportion appropriate legal responsibilities to landowners, foresters and loggers for compliance with the rules. That is straight out of the law from last year. Maine Forest Service defined responsible party and established that all responsible parties would be jointly and severally liable for compliance with and liable for violations of the rules.

A few commenters during the comment period expressed concern that certain named responsible parties might be held responsible for actions in which they had no part of. For example, loggers who might be held liable for harvesting according to a timber harvest plan that didn't comply with the rules. The Maine Forest Service says, "The Maine Forest Service does not intend to make all parties liable for every violation. The language in the rule was developed to allow Maine Forest Service to prosecute parties other than the landowner if the facts of a particular case indicated that either the forester or the logger or both were culpable for a violation. It is quite possible."

The logger is not always exonerated for what has happened. Loggers will not be responsible if a landowner sells the property and the logger did what the landowner asked necessarily.

I will also bring up **SWAM**. We are as fond of **SWAM** as we are of **MMA**. We often ask their opinion. You have on your desk a comment from the president of **SWAM** who says, "I endorse the rules." We talked with them after the hearing. They certainly had concerns as everyone did. We were listening to these concerns. They are very supportive of the rules. Thank you very much.

The Chair reminded Representative **MCKEE** of Wayne to confine her debate to the question before the House.



The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Hodgdon, Representative Sherman.

Representative **SHERMAN**: Mr. Speaker, Ladies and Gentlemen of the House. I would just like to add quite a few words. I have heard from a retired State Police officer who is concerned with this. I have heard from a small logger who cuts big trees. I have heard from a school teacher, a dairy farmer, very enlightening material from a man who has a PHD in forestry and knows the difference among the forestry terms and forestry practices. He was very enlightening. I would give him an A+ if I may do that.

I would like to just add some things. I am sure they are in the back of our minds. I have been down here six years and six years too many I think. Ninety percent to this state is covered by forests, 90 percent. It is more than it was 100 years ago. The next time I hear someone say, our woods, our woods, our farms, eight times I have heard that. It is ours, ours, ours. It is not yours. It is private property. It belongs with someone else. We have managed to lay paperwork on every piece of rock, woods, flat nose toads, you pick the things. We have more endangered species now. We had to double up the alphabet to do it the other day. That is my frustration. I have 300 acres of land. I have three little farms. We don't call it forestland. We call them woodlots. One of them has been in the family 120 years and it has moved on and on. We have been cutting that thing since my great grandfather. We had to put a harvest land in. We did those things. We want to go into tree growth. We thought we would probably hold onto the land and get it into tree growth. Since I have been down here, I think we have had to revise those forestry plans a couple times and try to dig up a forester somewhere to do it, which is not easy. It concerns me. We are talking about the fact that there wasn't a fiscal note. Representative Carr dealt with that.

I opt to get out of some of the tree growth stuff because you want a little more freedom to deal with what you had and all of a sudden we are looking up and we are back into the tree growth. We do not have large farmers that might have 500 or 1,000 acres that they might want to get in and out of. I am looking at exemptions. Again, it looks like the tax code, maybe we will even have a revised tax code there sometime. What I am expressing is frustration. I know one of these is going to pass. One apparently is in English that one can understand. One is in some sort of legalese that foresters go 12 years of college to understand. One you can go out and count the stems in the wintertime and say that I know whether I am in violation or not.

I would prefer us to defeat the Majority Report and go onto the Minority Report without talking about the details of it. I guess the last frustration is over and over. This is driven by southern Maine. I am 260 miles northeast of York and Cumberland County. The south is dictating west and east and north. If you have a problem in your own backyard, fix it in your own backyard. Leave us alone. I know that is not going to happen. Let's do at least the best of the worst if I can. I am going to an international conference next weekend and I may propose to the Canadians and ask them if they would like to buy everything above the 45th parallel. We would probably get along with the Canadians very nicely because they seem much more intelligent in some ways about what to do with the forestlands. Thank you Mr. Speaker.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Wilton, Representative Saviello.

Representative **SAVIELLO**: Mr. Speaker, Ladies and Gentlemen of the House. Just a couple of things I want to address that have been brought up. First of all, I do appreciate the Forest Service efforts to absorb this. All of us who are in the

business world or in the private world have recognized today that we have to absorb many tasks and responsibilities. The point is, we, as a Legislature, have even challenged this group more. In their Forest Service webpage they talked about two bills that we passed that they are supposed to enforce now. One is boundary lines and the other deals with timber trespass. We have charged them with more responsibilities that are real problems.

The second part of it is the harvest plan. The good Representative from Wayne did point out, in fact, that there are exemptions. Using a logger or a forester can only be harvested up to 100 acres. That is it. The exemptions are in the bill. I won't read them all to you, but they are things that contain less than 20 acres. If you own a land of less than 100 acres, they define those. They are very specific. They are not open ended. My point was, why does my logger, Bob Thorndike, who has worked in the woods all his life who cares about his land, why does he have to hire a master logger and get trained in that? Why does he have to become a licensed forester? He probably knows more today than any one of those and he probably knows more than I do in managing the forest.

Lastly, on the legal piece, there are intentions. Those are good intentions. We are not going to go after the logger if he had nothing to do with it. However, the way this is written, the logger still could be accused and he or she will have to get a lawyer to prove their innocence. I think that needs to be changed.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Manchester, Representative Moody.

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

The **SPEAKER PRO TEM**: The Representative may pose his question.

Representative **MOODY**: Mr. Speaker, Ladies and Gentlemen of the House. I stand here and I am interested in all this technical jargon and not sure that I understand it. I will ask you a procedural question. This apparently calls for a major substantive rule. If we reject the Majority Report by failing the two-thirds required for the emergency provision and if we accept the Minority Report and if it comes back from the Senate in non-concurrence, will the Department of Conservation then simply implement the rules of the Majority Report?

The **SPEAKER PRO TEM**: The Representative from Manchester, Representative Moody has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Lincoln, Representative Carr.

Representative **CARR**: Mr. Speaker, Men and Women of the House. The answer is the rules were provisional. They would take affect. They are in effect and they would remain in effect if everything was defeated.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Bar Harbor, Representative Koffman.

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

The **SPEAKER PRO TEM**: The Representative may pose his question.

Representative **KOFFMAN**: Mr. Speaker, Ladies and Gentlemen of the House. I didn't understand this legislation to be emergency legislation. Am I incorrect in that? Thank you.

The **SPEAKER PRO TEM**: The Chair would state that it is emergency legislation. Consequently two-thirds would be necessary.

The Chair recognizes the Representative from Wayne, Representative McKee. Having spoken twice now requests unanimous consent to address the House a third time. Is there

objection? Chair hears no objection, the Representative may proceed.

Representative **MCKEE**: Mr. Speaker, Ladies and Gentlemen of the House. I am looking at the Committee Amendment "A" to the Majority Report from the committee and I am not looking at the one on the desk. It does say to amend the resolve by removing the emergency preamble. Perhaps the Clerk would be able to clarify that for me.

The SPEAKER PRO TEM: No. Committee Amendment "A" does not remove the emergency. The answer is no. The Representative may proceed.

Representative **MCKEE**: Mr. Speaker, Ladies and Gentlemen of the House. I wanted to respond to a remark. I hope it wasn't spoken seriously, but perhaps it does need to be addressed. A previous speaker mentioned that this is being driven by southern Maine. He said if you have a problem in your own backyard, then fix it. I was very sorry to hear that.

The SPEAKER PRO TEM: Would the Representative please defer? The Committee Amendment does remove the emergency. You may proceed.

Representative **MCKEE**: Thank you Mr. Speaker. We deal with a lot of subjects here from all over the state, potatoes, farms, highways, lakes, mountains, businesses in every nook and cranny of this state. This is not being driven by southern Maine. If you have read the paper over the last 10 years, you might say it is being driven by western Maine, central Maine, down east Maine as well as southern Maine. It is those communities who have had to deal with the business practices of some unscrupulous people who have bought land, stripped it, subdivided it, sold house lots and foisted upon our towns a problem that many of us are still trying to come out from under.

This is a serious problem. Thank you very much.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bar Harbor, Representative Koffman.

Representative **KOFFMAN**: Mr. Speaker, Ladies and Gentlemen of the House. We do have a difference of opinion obviously over the merits of the Majority Report. I am very pleased and I think there is reason to take at least a moment to celebrate that this institution generally seems to agree on the nature of the problem and on the importance of solving the problem. That is very refreshing. This issue has been around for at least a couple of decades and perhaps it is about to go away one way or the other.

As we agree, we also agree with the public. According to statewide polls, 64 percent of the public would like us to deal with this problem. They favor elimination of liquidation harvesting. They favor financial incentives for long-term forest management. They favor disincentives for practices such as liquidation harvesting. They support, 52.6 percent, regulations that define acceptable timber harvesting.

I think one of the reasons as a member of the public that I support this Majority Report is the end result of the harvest. It is not the loss of trees. We grow and cut trees for a living in Maine. We support forests to sustain important habitat in Maine and to support recreation in Maine. When we cut them all off, a piece of land and subdivide it into 40 or 50 or 80 acre lots and sell them to people from New Jersey and Massachusetts what we start to grow in Maine is "Do Not Trespass" signs, posted signs because folks from away who buy all those lots on those 16,000 to 50,000 acres a year that we lost to liquidation harvesting do not necessarily subscribe to the Maine ethic of opening your land to public access. For a lot of folks, this is about public access. We are fragmenting the northern forest, the western forest, the down east forests and inviting posted signs from folks who are not

going to want us to snowmobile on their land, shoot guns on their land, cross their land to go to a fishing stream, etc. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Hodgdon, Representative Sherman.

Representative **SHERMAN**: Mr. Speaker, Ladies and Gentlemen of the House. I must agree to disagree. I do disagree that there is a major problem. We are still 90 percent forested. You can talk about slicing and dicing all you want. You having zoning in your districts. I don't know what you are doing with that. I would just say that I am not opposed to one of these amendments. The first one, as I heard Representative Carr said, is not written in English. I heard Representative Saviello, who has a PHD in forest management, I respect him highly and I would hope that his testimony would be printed somewhere for some people to listen to and study because the man knows what he is talking about. If we have to have the lesser of two evils, I would rather not see the majority. I would rather see the minority. At least we are talking about the same problem if we make believe there is a problem other than in southern Maine. I am not really opposed to the complete bill, but only the one written in something other than English.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Skowhegan, Representative Richardson.

Representative **RICHARDSON**: Mr. Speaker, Ladies and Gentlemen of the House. I have tried hard not to speak about this. I am not too qualified to speak about forestry, but I have listened to this information about cutting trees and putting houses on them as though that was the worst thing in the world. I have never heard anybody say anything about taking a 150 acres of beautiful farmland and covering it with cement and putting on buildings. That is a whole lot more serious than cutting trees, which if you stand in one place in the State of Maine, one will grow right between your legs. I do not understand what we are trying to accomplish. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Monmouth, Representative Smith.

Representative **SMITH**: Mr. Speaker, Men and Women of the House. I always attempt to be brief. I am afraid I may have been too brief earlier. I forgot to mention that I am also a licensed forester. It is an honor to be referred to as a dairy farmer and I take that very proudly. I am also a licensed forester. When contemplating how this debate might go, I wondered whether or how to discuss the technical content in each set of rules. I decided that dueling foresters was not an effective way to deal with the issue. It was not constructive. Judging by the number of empty seats I see, I stand by that decision.

I will say that I disagree with most of the points made in opposition to this bill. Some are philosophical differences. There are some differences in interpretation. I wish that Representative Berry was in his seat, because I think for the first time in my legislative career I have spotted a red herring.

I simply want to say that the business practice of land fragmentation, and I am very happy that the previous speaker made the exact comment that I wanted to, I will wear both hats. I believe that is another cliché that I have never used here. As a farmer and a forester, it is exactly the same as sprawl. We are trying to deal with sprawl. The Majority Report is responsive to the directive that we, the Legislature, gave them last year to substantially eliminate liquidation harvesting. It does it in a flexible, yet targeted manner. It does it effectively. It is the only report that does so. Thank you. I do hope you appreciate the lack of dueling foresters.



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The Speaker resumed the Chair.  
The House was called to order by the Speaker.

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The SPEAKER: The Chair recognizes the Representative from Arundel, Representative Daigle.

Representative DAIGLE: Mr. Speaker, Ladies and Gentlemen of the House. We have gone on here for quite a while now. I am forgetful of whether or not a roll call has been requested. Mr. Speaker, could you answer that?

The SPEAKER: The Chair would answer in the negative. The Representative may proceed.

Representative DAIGLE: Mr. Speaker, Ladies and Gentlemen of the House. I would like to request a roll call.

Representative DAIGLE of Arundel REQUESTED a roll call on the motion to ACCEPT the Majority Ought to Pass as Amended Report.

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

Representative DAIGLE: Mr. Speaker, Ladies and Gentlemen of the House. As I mentioned, we have gone on here for quite a while. I noticed that the letter from the Chief Executive reads distributed at the request of the Representative from Bar Harbor is dated Friday. I am concerned that he knows something I don't about this matter.

The SPEAKER: The Representative from Arundel, Representative Daigle has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bar Harbor, Representative Koffman.

Representative KOFFMAN: Mr. Speaker, Men and Women of the House. The Representative from Bar Harbor, Representative Koffman, is always pleased to be on hand to respond to questions from the Representative from Arundel, Representative Daigle. I am glad he didn't ask me what size house lot I own on Mt. Desert Island. He usually does that in committee. I don't know the Governor well enough to know why he postdated the letter. He may know something we all don't know. Thank you Mr. Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority Ought to Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 507**

YEA - Adams, Barstow, Beaudette, Bennett, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Cowger, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Gagne-Friel, Gerzofsky, Grose, Hatch, Hutton, Jackson, Kane, Ketterer, Koffman, Lemoine, Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, McGlocklin, McGowan, McKee, McLaughlin, Mills J, Moody, Norton, O'Brien L, O'Neil, Paradis, Pellon, Percy, Perry J, Pineau, Pingree, Richardson J, Rines, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Twomey, Usher, Walcott, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Andrews, Annis, Ash, Austin, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Clark, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Finch, Fischer, Glynn, Goodwin, Heidrich, Honey, Hotham, Jennings, Jodrey, Joy, Kaelin, Ledwin, Lewin, Maietta, McCormick, Millett, Mills S, Moore, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson E, Richardson M, Rogers, Rosen, Saviello, Sherman,

Shields, Snowe-Mello, Stone, Sukeforth, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Young.

ABSENT - Blanchette, Churchill J, Craven, Dugay, Duprey B, Fletcher, Greeley, Jacobsen, Landry, Lerman, McKenney, McNeil, Murphy, Norbert, Patrick, Perry A, Piotti, Sampson, Sykes, Watson.

Yes, 66; No, 65; Absent, 20; Excused, 0.

66 having voted in the affirmative and 65 voted in the negative, with 20 being absent, and accordingly the Majority Ought to Pass as Amended Report was ACCEPTED.

The Resolve was READ ONCE. Committee Amendment "A" (H-966) was READ by the Clerk and ADOPTED.

Under 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 as Amended by Committee Amendment "A" (H-966) and sent for concurrence.

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

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**ENACTORS  
Acts**

An Act To Increase Maine's Minimum Wage

(S.P. 237) (L.D. 673)

(S. "A" S-563 to C. "A" S-359; S. "A" S-491)

An Act To Encourage and Support Maine Small Businesses

(S.P. 427) (L.D. 1325)

(S. "A" S-562 to C. "A" S-486)

An Act To Promote the Production and Use of Fuels Derived from Agricultural and Forest Products

(H.P. 1089) (L.D. 1492)

(S. "A" S-564 to C. "A" H-641)

Reported by the Committee on Engrossed Bills as truly and strictly engrossed, PASSED TO BE ENACTED, signed by the Speaker and sent to the Senate. ORDERED SENT FORTHWITH.

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**Acts**

An Act To Join the Interstate Insurance Product Regulation Compact

(S.P. 630) (L.D. 1698)

(S. "A" S-565 to C. "A" S-389)

An Act To Promote Responsible Pet Ownership

(H.P. 1285) (L.D. 1763)

(S. "A" S-567 to C. "A" H-727)

Reported by the Committee on Engrossed Bills as truly and strictly engrossed, PASSED TO BE ENACTED, signed by the Speaker and 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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**ENACTORS  
Mandate**

An Act To Provide Equity in Veterans' Property Tax Exemptions

(H.P. 1268) (L.D. 1746)

(C. "A" H-725; H. "A" H-742; S. "A" S-566)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 124 voted in favor of the same and 2 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

**Mandate**

An Act To Expand Maine's Homestead Exemption for the Blind

(H.P. 1316) (L.D. 1794)  
(S. "A" S-568 to C. "A" H-724)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 128 voted in favor of the same and 1 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

**COMMUNICATIONS**

The Following Communication: (H.C. 423)

**STATE OF MAINE**

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE  
COMMITTEE ON AGRICULTURE, CONSERVATION AND  
FORESTRY**

April 29, 2004

The Honorable Beverly C. Daggett, President of the Senate  
The Honorable Patrick Colwell, Speaker of the House  
121st Maine Legislature  
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

We are pleased to report that all business which was placed before the Joint Standing Committee on Agriculture, Conservation and Forestry during the Second Regular and Second Special Sessions of the 121st Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers	32
Unanimous Reports	14
Ought to Pass	3
Ought to Pass as Amended	7
Ought Not to Pass	3
Referred to Another Committee	1
Divided Reports	1
Committee Bills & Papers	3
Pursuant to Public Law	2
Pursuant to Statute	1
Gubernatorial Nominations	14

Respectfully submitted,  
S/Bruce S. Bryant

Senate Chair

S/Linda Rogers McKee

House Chair

**READ and ORDERED PLACED ON FILE.**

The House recessed until the Sound of the Bell.

(After Recess)

The House was called to order by the Speaker.

Reference was made to Bill "An Act To Increase Returnable Beverage Container Redemption Rates" (H.P. 931) (L.D. 1257)

In reference to the action of the House on April 29, 2004, whereby it Insisted and Asked for a Committee of Conference, the Chair appoints the following members on the part of the House as Conferees:

Representative SULLIVAN of Biddeford  
Representative PELLON of Machias  
Representative TRAHAN of Waldoboro

**SENATE PAPERS**

**Non-Concurrent Matter**

Resolve, To Implement the Recommendations of the Commission To Study the Scope and Quality of Citizenship Education

(H.P. 1417) (L.D. 1915)

**FINALLY PASSED** in the House on April 5, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-800))

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-800) AND **SENATE AMENDMENT "A"** (S-574) in **NON-CONCURRENCE.**

The House voted to **RECEDE AND CONCUR.**

**Non-Concurrent Matter**

An Act To Implement the Recommendations of the Commission To Improve the Sentencing, Supervision, Management and Incarceration of Prisoners (EMERGENCY)

(H.P. 1382) (L.D. 1856)

**PASSED TO BE ENACTED** in the House on April 12, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-833))

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-833) AND **SENATE AMENDMENT "A"** (S-571) in **NON-CONCURRENCE.**

Representative COLWELL of Gardiner moved that the House **RECEDE AND CONCUR.**

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. 508**

YEA - Adams, Ash, Barstow, Beaudette, Blanchette, Bliss, Brannigan, Breault, Bull, Canavan, Clark, Cowger, Dugay, Dunlap, Duplessie, Duprey G, Earle, Eder, Finch, Fischer, Gagne-Friel, Gerzofsky, Grose, Hatch, Honey, Hutton, Jackson, Jennings, Kane, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, McGlocklin, McGowan, McKee, McLaughlin, Mills J, Moody, Norbert, Norton, Nutting, O'Brien J, O'Neil, Paradis, Pellon, Percy, Pineau, Pingree, Richardson J, Rines, Simpson, Smith N, Smith W,

Sukeforth, Sullivan, Thomas, Thompson, Tobin J, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

**NAY** - Andrews, Annis, Austin, Bennett, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Glynn, Goodwin, Heidrich, Hotham, Jodrey, Joy, Kaelin, Landry, Lewin, Maietta, McCormick, Millett, Mills S, Muse, Peavey-Haskell, Rector, Richardson E, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Tardy, Tobin D, Trahan, Treadwell, Vaughan, Young.

**ABSENT** - Bunker, Churchill J, Craven, Cummings, Dudley, Duprey B, Faircloth, Fletcher, Greeley, Jacobsen, Ledwin, McKenney, McNeil, Moore, Murphy, O'Brien L, Patrick, Perry A, Perry J, Piotti, Sampson, Saviello, Suslovic, Sykes.

Yes, 73; No, 54; Absent, 24; Excused, 0.

73 having voted in the affirmative and 54 voted in the negative, with 24 being absent, and accordingly the House voted to **RECEDE AND CONCUR**.

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

**Non-Concurrent Matter**

An Act To Implement the Recommendations of the Committee To Study Compliance with Maine's Freedom of Access Laws

(H.P. 1456) (L.D. 1957)

**PASSED TO BE ENACTED** in the House on April 12, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-866) AND SENATE AMENDMENT "A" (S-502)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-866) AND SENATE AMENDMENTS "A" (S-502) AND "B" (S-573) in NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR. ORDERED SENT FORTHWITH**.

**ENACTORS**

**Acts**

An Act Regarding Penalties Assessed by the Bureau of Forestry

(H.P. 1472) (L.D. 1965)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH**.

**SENATE PAPERS**

**Non-Concurrent Matter**

Resolve, To Commission a Portrait of the Honorable George J. Mitchell To Hang in the State House

(S.P. 658) (L.D. 1725)

**FINALLY PASSED** in the House on February 11, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-365)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-365) AS**

**AMENDED BY SENATE AMENDMENT "A" (S-577)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR. ORDERED SENT FORTHWITH**.

**Non-Concurrent Matter**

An Act To Improve the Operations of the Department of Corrections and the Safety of State Correctional Facilities

(H.P. 1286) (L.D. 1764)

**PASSED TO BE ENACTED** in the House on March 19, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-749)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-749) AS AMENDED BY SENATE AMENDMENT "A" (S-576)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR. ORDERED SENT FORTHWITH**.

**ENACTORS**

**Resolves**

Resolve, Regarding Legislative Review of Chapter 23: Standards for Timber Harvesting To Substantially Eliminate Liquidation Harvesting, a Major Substantive Rule of the Department of Conservation

(H.P. 1466) (L.D. 1962)

(C. "A" H-966)

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

On motion of Representative CARR of Lincoln, was **SET ASIDE**.

The same Representative **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**: The Chair recognizes the Representative from Crystal, Representative Joy.

Representative **JOY**: Mr. Speaker, Ladies and Gentlemen of the House. During the previous testimony that took part on this bill, we heard reference to a poll, which supposedly said that 64 percent of the people supported that position. I wonder if I might be given the information on how many people were polled in that survey and where the residences were for the people that were polled in that survey? Thank you very much.

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

Representative **TRAHAN**: Mr. Speaker, Ladies and Gentlemen of the House. Just to give you an update. When I spoke earlier I brought out a concern about liability for wood harvesters when they cut for landowners. I just wanted to let you know that the commission graciously agreed to some measures to address that. I really appreciate that from him. Although I can't support this, I do appreciate his willingness to talk to me and address that concern and I think he has. Thank you.

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.

**ROLL CALL NO. 509**

**YEA** - Adams, Barstow, Beaudette, Bennett, Blanchette, Bliss, Brannigan, Breault, Bull, Canavan, Cowger, Cummings, Davis, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Gagne-Friel, Gerzofsky, Grose, Hatch, Hutton, Jackson, Kane, Ketterer, Koffman, Landry, Lemoine, Lerman,

Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, McGlocklin, McGowan, McKee, McLaughlin, Mills J, Mills S, Moody, Norbert, Norton, O'Neil, Paradis, Percy, Perry J, Pineau, Pingree, Rector, Richardson J, Rines, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Tobin J, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Andrews, Annis, Ash, Austin, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Bunker, Campbell, Carr, Churchill E, Clark, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Fischer, Glynn, Goodwin, Heidrich, Honey, Hotham, Jodrey, Joy, Kaelin, Ledwin, Lewin, Maietta, McCormick, Millett, Muse, Nutting, O'Brien J, Peavey-Haskell, Pellon, Richardson E, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Tardy, Tobin D, Trahan, Treadwell, Vaughan, Young.

ABSENT - Churchill J, Craven, Duprey B, Fletcher, Greeley, Jacobsen, Jennings, McKenney, McNeil, Moore, Murphy, O'Brien L, Patrick, Perry A, Piotti, Sampson, Saviello, Sykes.

Yes, 74; No, 59; Absent, 18; Excused, 0.

74 having voted in the affirmative and 59 voted in the negative, with 18 being absent, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and 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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The House recessed until the Sound of the Bell.

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(After Recess)

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The House was called to order by the Speaker.

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**ENACTORS**  
**Emergency Measure**

An Act To Implement the Recommendations of the Commission To Improve the Sentencing, Supervision, Management and Incarceration of Prisoners

(H.P. 1382) (L.D. 1856)  
(C. "A" H-833; S. "A" S-571)

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

Representative DUPLESSIE of Westbrook **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.

On motion of the same Representative, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned. (Roll Call Ordered)

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**Emergency Measure**

An Act To Implement the Recommendations of the Committee To Study Compliance with Maine's Freedom of Access Laws

(H.P. 1456) (L.D. 1957)  
(H. "A" H-866; S. "A" S-502; S. "B" S-573)

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

Representative DUPLESSIE of Westbrook **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.

On motion of the same Representative, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned. (Roll Call Ordered)

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**ENACTORS**  
**Resolves**

Resolve, To Implement the Recommendations of the Commission To Study the Scope and Quality of Citizenship Education

(H.P. 1417) (L.D. 1915)  
(C. "A" H-800; S. "A" S-574)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **FINALLY PASSED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH**.

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An Act To Improve the Operations of the Department of Corrections and the Safety of State Correctional Facilities

(H.P. 1286) (L.D. 1764)  
(S. "A" S-576 to C. "A" H-749)

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

On motion of Representative JOY of Crystal, 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**: 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. 510**

YEA - Adams, Annis, Ash, Austin, Barstow, Beaudette, Berry, Berube, Bierman, Blanchette, Bliss, Bowen, Bowles, Brannigan, Breault, Brown R, Browne W, Bruno, Bull, Bunker, Campbell, Canavan, Carr, Churchill E, Clark, Clough, Collins, Courtney, Cowger, Cummings, Curley, Daigle, Davis, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Glynn, Grose, Hatch, Heidrich, Honey, Hotham, Hutton, Jackson, Jennings, Jodrey, Kaelin, Kane, Koffman, Ledwin, Lemoine, Lerman, Lessard, Lewin, Lundeen, Maietta, Mailhot, Makas, Marley, Marraché, McCormick, McGowan, McKee, McLaughlin, Millett, Mills J, Mills S, Moody, Murphy, Muse, Norbert, Norton, Nutting, O'Brien J, O'Brien L, O'Neil, Paradis, Pellon, Percy, Perry J, Pineau, Pingree, Rector, Richardson E, Richardson J, Richardson M, Rines, Rogers, Rosen, Saviello, Sherman, Shields, Simpson, Smith N, Smith W, Snowe-Mello, Sukeforth, Sullivan, Suslovic, Tardy, Thomas, Thompson, Tobin D, Tobin J, Trahan, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - Andrews, Bennett, Bryant-Deschenes, Cressey, Crosthwaite, Goodwin, Joy, Peavey-Haskell, Stone, Treadwell, Vaughan.

ABSENT - Churchill J, Craven, Duprey B, Fletcher, Greeley, Jacobsen, Ketterer, Landry, McGlocklin, McKenney, McNeil, Moore, Patrick, Perry A, Piotti, Sampson, Sykes.

Yes, 123; No, 11; Absent, 17; Excused, 0.

123 having voted in the affirmative and 11 voted in the negative, with 17 being absent, and accordingly the Bill was

**PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH**.

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Resolve, To Commission a Portrait of the Honorable George J. Mitchell To Hang in the State House

(S.P. 658) (L.D. 1725)  
(S. "A" S-577 to C. "A" S-365)

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

On motion of Representative GLYNN of South Portland, was **SET ASIDE**.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Glynn.

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. It is my understanding that when we last debated this bill, prior to the amendments, that this bill called for the commission of a portrait of former Senator Mitchell for the State House for approximately \$20,000. Having read the amendments, I wish to pose a question to anyone who may answer it? My question is, it is my understanding from reading the amendment that, in fact, this will no longer have any public money in this commission of constructing a portrait of the former Senator and it will all be donations. I would like to know if that is true or false.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Brannigan.

Representative **BRANNIGAN**: Mr. Speaker, Men and Women of the House. That is true.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Glynn.

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. That being said, I think this is a terrific thing to have a portrait of Senator Mitchell made up that can hang in the State House. My only objection to this whole issue was the fact in this budget shortfall of, in fact, using \$20,000 of public funds for this purpose. That being said, I would like to request a roll call and go on the record in support of this.

The same Representative **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.

#### **ROLL CALL NO. 511**

YEA - Adams, Andrews, Annis, Ash, Austin, Barstow, Beaudette, Bennett, Berry, Bierman, Blanchette, Bliss, Bowen, Bowles, Brannigan, Breault, Brown R, Browne W, Bruno, Bryant-Deschenes, Bull, Bunker, Campbell, Canavan, Carr, Churchill E, Clark, Clough, Collins, Courtney, Cowger, Cressey, Crosthwaite, Cummings, Curley, Daigle, Davis, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Glynn, Goodwin, Grose, Hatch, Heidrich, Honey, Hotham, Hutton, Jackson, Jennings, Jodrey, Joy, Kaelin, Kane, Ketterer, Koffman, Ledwin, Lemoine, Lerman, Lessard, Lewin, Lundeen, Maietta, Mailhot, Makas, Marley, Marraché, McCormick, McGlocklin, McGowan, McKee, McLaughlin, Millett, Mills J, Mills S, Moody, Murphy, Muse, Norbert, Norton, Nutting, O'Brien J, O'Brien L, O'Neil, Paradis, Peavey-Haskell, Pellon, Percy, Perry J, Pineau, Pingree, Rector, Richardson E, Richardson J, Richardson M, Rines, Rogers, Rosen, Saviello, Shields, Simpson, Smith N, Smith W, Snowe-Mello, Stone, Sullivan, Suslovic, Tardy, Thomas, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Usher, Vaughan, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - Sukeforth.

ABSENT - Berube, Churchill J, Craven, Duprey B, Fletcher, Greeley, Jacobsen, Landry, McKenney, McNeil, Moore, Patrick, Perry A, Piotti, Sampson, Sherman, Sykes.

Yes, 133; No, 1; Absent, 17; Excused, 0.

133 having voted in the affirmative and 1 voted in the negative, with 17 being absent, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

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

#### **COMMUNICATIONS**

The Following Communication: (S.C. 626)

**MAINE SENATE  
121ST LEGISLATURE  
OFFICE OF THE SECRETARY  
3 STATE HOUSE STATION  
AUGUSTA, MAINE 04333**

April 29, 2004

The Honorable Millicent M. MacFarland

Clerk of the House

2 State House Station

Augusta, ME 04333

Dear Clerk MacFarland:

Please be advised that the Senate has Insisted and Joined the Committee of Conference on the disagreeing action between the two branches of the Legislature on Bill "An Act to Increase Returnable Beverage Container Redemption Rates" (H.P. 931) (L.D. 1257).

The President has appointed as conferees on the part of the Senate the following:

Senator Christopher G. L. Hall of Lincoln County  
Senator Kevin L. Shorey of Washington County  
Senator Kenneth T. Gagnon of Kennebec County

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

**READ and ORDERED PLACED ON FILE.**

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#### **SENATE PAPERS**

##### **Non-Concurrent Matter**

An Act To Promote Intergovernmental Cooperation, Cost Savings and Efficiencies

(S.P. 767) (L.D. 1930)

**PASSED TO BE ENACTED** in the House on April 15, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-510) AS AMENDED BY SENATE AMENDMENT "A" (S-517)** thereto)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-510) AS AMENDED BY SENATE AMENDMENTS "A" (S-517) AND "B" (S-575)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

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

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

An Act To Implement the Recommendations of the Committee To Study Compliance with Maine's Freedom of Access Laws

(H.P. 1456) (L.D. 1957)  
(H. "A" H-866; S. "A" S-502; S. "B" S-573)

Which was **TABLED** by Representative DUPLESSIE of Westbrook pending **PASSAGE TO BE ENACTED**. (Roll Call Ordered)

Subsequently, Representative DUPLESSIE of Westbrook **WITHDREW** his **REQUEST** for a roll call.

On motion of Representative NORBERT of Portland, the House **RECONSIDERED** its action whereby it voted to **RECEDE AND CONCUR** to **PASSAGE TO BE ENGROSSED** as **Amended by House Amendment "A" (H-866)** and **Senate Amendments "A" (S-502)** and **"B" (S-573)**.

On further motion of the same Representative, the House voted to **ADHERE** to **PASSAGE TO BE ENGROSSED** as **Amended by House Amendment "A" (H-866)** and **Senate Amendment "A" (S-502)** in **NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH**.

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The House recessed until the Sound of the Bell.

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(After Recess)

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The House was called to order by the Speaker.

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## REPORTS OF COMMITTEE

### Divided Report

Majority Report of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-560)** on Bill "An Act To Authorize Department of Transportation Bond Issues in the Amount of \$18,250,000 To Match Available Federal Funds for Improvements to and Development of Highways and Bridges; Airports; Ferry Vessels, Port Facilities and Marine Infrastructure; Rail Corridors and Structures; Intermodal Facilities; and Trail and Pedestrian Facilities"

(S.P. 723) (L.D. 1875)

Signed:

Senators:

CATHCART of Penobscot  
ROTUNDO of Androscoggin

Representatives:

BRANNIGAN of Portland  
MAILHOT of Lewiston  
COWGER of Hallowell  
DUDLEY of Portland  
PINGREE of North Haven  
FAIRCLOTH of Bangor

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-561)** on same Bill.

Signed:

Senator:

TURNER of Cumberland

Representatives:

ROSEN of Bucksport  
MILLS of Cornville  
O'BRIEN of Augusta  
MILLETT of Waterford

Came from the Senate 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" (S-560) AS AMENDED BY SENATE AMENDMENT "A" (S-578)** thereto.

**READ.**

Representative BRANNIGAN of Portland moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

Representative BRUNO of Raymond **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass as Amended** 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 Portland, Representative Brannigan.

Representative **BRANNIGAN**: Mr. Speaker, Men and Women of the House. What I am presenting is the bond package. It is a majority bond package that is included for four different questions that will go out to the voters in November. One is a highway package that contains a very modest \$18 million bond package. It will do minimally what we need to do in a time when we need to do a great deal. It is a time that is good for borrowing. It is a time, as you know, when interest rates are at an all time low and a time that we should be taking care of business. It also has three other elements.

The one that is most interesting, I think to everyone, is the Land for Maine's Future bond. It has been a bond that has been tremendously acceptable, successful in our state over these last years. It is a fund that is near its end with the money that we have given it so far. The Governor has proposed and we have agreed that \$20 million per year for the next three years, giving it a \$60 million boost is the way to go.

We also included in this package much needed environmental pieces dealing with drinking water, wastewater, cleanup, etc and pieces dealing with economic development. I encourage you to join with me and others in accepting this bond package so that we can carry on the work of the people for the next year. Thank you Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Bucksport, Representative Rosen.

Representative **ROSEN**: Mr. Speaker, Men and Women of the House. I hope you do have the opportunity to take a lot at this package, particularly when you look at the title of the bill that is before you. It is important that you examine the contents. If you notice, the title of the bill refers to a transportation bond in the amount of \$18,250,000. As was just explained to you by the good House Chair of Appropriations, this particular vehicle now has become much more than an \$18.25 million highway bond package. It has become a \$120 million multi-use grab bag bond package. The exact amount is \$119,925,000 in this one vehicle. Take it all or leave it all. One vote. You need to understand that that constitutes the contents of this particular bill. There is, in fact, I am sure not before you, but I have here a tightly printed three page list of all of the contents of the pieces in this particular bond and it is extensive. The components of the bond, I am sure, as in any bond package, are important and are valuable to some constituency somewhere in the state. I certainly would not for a minute argue that there isn't something in here that is meaningful and important to someone. I do believe, considering the financial condition of the state and the year that we have just completed

this year, considering last year's biennial budget and the \$149 million bond package that we did vote out last year in June and November, that the size and the scope of this package is simply too ambitious.

If you notice on the supplement that is before you, there is a Majority and a Minority Report and if you do have the opportunity I suggest in addition to looking at (S-560) then in addition you look at (S-561). If you examine the Minority Report you will see a tightly crafted, efficient and very adequate bond package counter proposal that addresses the needs that we are facing this year and allows the 122nd to return and deal with the issues that will be faced in '06 and '07. We have between the two packages a difference of \$90 million. That is a significant difference.

I also want to remind folks, there is a blue colored handout, that gives you a visual picture of the already voter authorized, but still unissued debt that we do have currently in the pipeline. If you notice, if you examine the chart, you will see there was a very significant ramp up in voter authorized and unissued debt with the peak in the year of 1990, which coincides with the last cycle of economic distress that this state has faced. We were able to begin to enter a cycle that we put out a more reasonable level of debt, but unfortunately conditions have put us in a place where previous Legislatures have made the decision to once again ramp up our debt and we are beginning to approach again, actually this year we had hit an all time record peak in the amount of authorized, but still unissued debt that we had in our pipeline.

We have extensive voter approved capacity. These are bonds that have been approved and that are waiting to be issued to go forward for quite some time to come. All of this bonded indebtedness has to be paid. Like any good mortgage, the first item that comes out of your budget every year is an annual payment of principal and interest to fund your debt. As our borrowing level has increased, so has the line item in our budget to pay for the principle and interest.

In '02/'03 biennial budget, our debt service, the amount of cash that we paid out of that budget to service debt was \$184 million. In the current biennium we move from \$184 million to \$213 million. In the next biennium we are looking at another increase of \$251 million. We will be paying a quarter of a billion dollars in debt service. Folks will respond and say that that is fine, because we are going to use a benchmark called the 5 percent rule. As long as our annual debt service doesn't exceed 5 percent of our revenue, we feel that is a suitable benchmark. It certainly is a benchmark. There are multiple benchmarks that people use, state governments use, institutions use. We all do within our own finances to determine what level of debt we are comfortable to obligate ourselves to and how much of our income we feel comfortable in paying toward that debt service. I think we all realize that if it is general obligation bonds and other bonds that carry the weight of a GO bond, then that money must be paid off the top before any of the operational costs in our budget are dealt with.

That is what we obligate ourselves to. Sometimes I think there is an impression that bonds are free money and somehow bonds are separate and apart from the creation and the development of our budget. Servicing our bonded debt has a direct impact on our operational expenses and the choices and the options that we have before us.

We have just been through a very tough budget year. We are facing another major shortfall next year. We have an uncertain outcome from a couple of important citizen initiatives that the voters will be making some choices on. Of course we can pay as much debt service as we obligate ourselves to pay, because we have to. Of course we can use the 5 percent rule, but the decision falls to the members of the Legislature as to what you

are comfort level is, particularly those that are returning in the next session and how far you are willing to go to tie your hands and to limit your flexibility in '06 and '07 when it comes to this quarter of a billion dollars that you will have to pay to service this debt.

I think that this Legislature in this session has already issued a reasonable bond package last year, a level of borrowing. I think that the Minority Report that is before you is fair and sensible and addresses the needs that are before us. I don't think that it is fiscally prudent for us to put before the voters \$120 million of additional debt requests with all the uncertainties that we are facing next session. I think we need to leave the next Legislature some flexibility. I hope you reject the Majority Report and move on to accept the Minority Report.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Brannigan.

Representative **BRANNIGAN**: Mr. Speaker, Men and Women of the House. The Minority Report is not before us. I do not believe this is a grab bag of items. I think if you look through these items both in the highway and in the environmental, I think you will see issues that affect your municipalities and your areas. I also neglected to mention last time when I got up that federal money comes to our state only if we use it and we can only use it if we are willing to do the work that needs to be done. By going with the Majority Report, you will be drawing down federal funds and other matching funds that are important to the activity of our state. I hope you will join me and the majority in voting for this reasonable bond package. Thank you.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Usher.

Representative **USHER**: Mr. Speaker, Men and Women of the House. I would like to address the Majority Report. Most of you have a copy of what the transportation bond issue includes in the \$18,250,000. It includes for roads and bridges \$10 million, which will be matched with \$40 million from the federal funds. Ports and ferries, we have the Governor Curtis that badly needs replacement. The coastal people have been very concerned that we repair this ferry. There is \$1 million will match \$1.75 million in federal money. The Governor Curtis is 40 years old and it really needs replacing. The rail fund, \$1.7 million will fund the rail infrastructure improvements. There are many, many applicants for this program. We would like to accommodate all of them, but we just initiated a program a few weeks ago to accommodate this people. In regards to the airports, there are three different island airports that need a lot of work done on them. This is included in the bond issue. Bicycle and pedestrian walkways, \$650,000 there. There are requests from all over the state for different walkways. I hear it all the time. Everybody wants a new walkway or a pedestrian walkway. We have a good history with the transportation bonds being passed. I think we ought to send this out to the people and they will decide. I urge you to support the Majority Report.

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

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. Here is my problem with the bond package that is in front of us right now. If you read this handout from the Maine Better Transportation Association, you will notice that there is only one cycle where we have borrowed in the last 10 years more than once every biennium. We have just made it so easy to rob the highway for general fund purposes. I won't say we, I will say many of you voted to increase the gas tax on automatic pilot and take that money for general fund purposes. If you didn't do that, if you didn't take \$10 million out of the highway fund for the general fund, then you would have plenty of money and you



wouldn't have to bond. Land for Maine's Future, '87 was the first one and '99 was the second time. Was Chicken Little anywhere in the house between those 12 years? I don't think so. Our responsibility is that we have the entire fiscal picture of the state. We know that there is a billion dollar shortfall next biennium. Don't shun your responsibility and say to the voters, here is some free money for you. Go ahead and pass it. Money will fall from the sky. The federal government is going to give it to you. The fact of the matter is, you don't have to bond for federal money. You can pay cash. It means you don't have to use your credit card, you can dig into your wallet if it is a priority.

That is the difference in philosophy here. Many of us know what it is like to not max out our credit cards. What are you going to do at the end of June? You are going pay one off for \$275 million and you are going to borrow \$295 million because you don't have any cash. Is that good fiscal policy? I don't think so. I think it is terrible. We can't even pay our bills. There are many vendors out there who we will only be paying until July, because there is no cash in the bank and you want to go borrow more money. How irresponsible can we get? I hope you vote against this report.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority Ought to Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 512**

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

NAY - Andrews, Annis, Austin, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Clark, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Glynn, Heidrich, Honey, Hotham, Jodrey, Joy, Kaelin, Ledwin, Lewin, Maietta, McCormick, Millett, Mills S, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson E, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Young.

ABSENT - Churchill J, Craven, Duprey B, Fletcher, Goodwin, Greeley, Jacobsen, Landry, McGowan, McKenney, Moore, Perry A, Piotti, Sampson, Saviello, Sykes, Twomey.

Yes, 75; No, 59; Absent, 17; Excused, 0.

75 having voted in the affirmative and 59 voted in the negative, with 17 being absent, and accordingly the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-560)** was **READ** by the Clerk.

**Senate Amendment "A" (S-578)** to **Committee Amendment "A" (S-560)** was **READ** by the Clerk.

On motion of Representative BRANNIGAN of Portland, **Senate Amendment "A" (S-578)** to **Committee Amendment "A" (S-560)** was **INDEFINITELY POSTPONED**.

**Committee Amendment "A" (S-560)** was **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-560)** in **NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH**.

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**ENACTORS**  
**Acts**

An Act To Promote Intergovernmental Cooperation, Cost Savings and Efficiencies

(S.P. 767) (L.D. 1930)

(S. "A" S-517 and S. "B" S-575 to C. "A" S-510)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH**.

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**SENATE PAPERS**  
**Non-Concurrent Matter**

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Change the Assessment of Lands Used for Long-term Ownership

(H.P. 695) (L.D. 938)

**PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-955)** in the House on April 27, 2004.

Came from the Senate **FAILED OF PASSAGE TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-955)** in **NON-CONCURRENCE**.

On motion of Representative PERCY of Phippsburg, the House voted to **INSIST** and **ASK** for a **COMMITTEE OF CONFERENCE**. 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.

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(After Recess)

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The House was called to order by the Speaker.

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The Chair laid before the House the following item which was **TABLED** earlier in today's session:

An Act To Implement the Recommendations of the Commission To Improve the Sentencing, Supervision, Management and Incarceration of Prisoners

(H.P. 1382) (L.D. 1856)

(C. "A" H-833; S. "A" S-571)

Which was **TABLED** by Representative DUPLESSIE of Westbrook pending **PASSAGE TO BE ENACTED**. (Roll Call Ordered)

Subsequently, Representative DUPLESSIE of Westbrook **WITHDREW** his **REQUEST** for a roll call.

On motion of Representative BLANCHETTE of Bangor, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED**.

The same Representative **PRESENTED House Amendment "A" (H-976)** which was **READ** by the Clerk.



The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Blanchette.

Representative **BLANCHETTE**: Mr. Speaker, Ladies and Gentlemen of the House. I offer my sincere apology for not being present in the chamber when this bill was tabled earlier. I had meant to put this amendment forth to the House and this amendment strips the emergency preamble from the bill. I would hope with that stripping of the emergency measure, that we could expect support and passage of this very important LD. Thank you Mr. Speaker.

**House Amendment "A" (H-976) was ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-833), House Amendment "A" (H-976) and Senate Amendment "A" (S-571) in NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH.**

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Representative NORBERT of Portland assumed the Chair. The House was called to order by the Speaker Pro Tem.

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#### UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Bill "An Act To Provide Property Tax Relief to Maine Homeowners" (EMERGENCY)

(H.P. 1347) (L.D. 1824)

TABLED - April 27, 2004 (Till Later Today) by Representative LEMOINE of Old Orchard Beach.

PENDING - FURTHER ACTION.

Subsequently, the Bill was **READ ONCE.**

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Gardiner, Representative Colwell.

Representative **COLWELL**: Mr. Speaker, Men and Women of the House. There are so many reasons not to act when it comes to taxes. There are so many reasons to try to find a safe cocoon, a safe place to hide away and not have to deal with the issue. There are so many lobbyists. Some days it seems like hundreds of lobbyists are trying to convince you that you should never ever deal with the issue of taxes. There are so many reasons to just try to play it safe.

I would suggest to you that there are at least 410,000 reasons in the State of Maine that this House should be courageous and this House should not play it safe and this House should rise in action and in response to the people of the State of Maine and their plea for action and for property tax relief and for increased education funding. I would submit to you that the amendment, House Amendment "B", is that action. Four hundred and ten thousand homeowners in the State of Maine, probably 800,000 people that live in those homes and then another 100,000 or so people that live in apartments. Each and every one of those 410,000 homeowners will receive property tax relief if we pass this piece of legislation. If you are a senior citizen over the age of 65, you will be guaranteed more than twice as much homestead exemption, property tax relief, than you receive right now.

We have had a long, long time, over two years of media campaigns, the voice out there that property tax is too high in this state. They are too high. Although I would submit to you that it is

not this Legislature's purview to manage municipal or school budgets, the reality is that Maine has the eighth highest number of local government employees in the United States, per 10,000 people. We have great services and we have great people that are delivering those services, but our property taxes are too high.

I think that this House has heard the plea and heard the cry and heard the questions. The question is, what are you going to do about my high property taxes? There are some that think we should just answer that question with another question and send it back to the people and say, what I am going to do is let you decide what to do. I don't think that is our job here. I know it is not my job. My job is to act and to provide property tax relief and education funding for the people of the State of Maine.

We have heard about all the reasons not to act. We have heard about the hundreds of lobbyists that tell us that we shouldn't act. We also probably all know someone like Phyllis Hanley, my neighbor in Gardiner. She is a 95-year-old woman living on a fixed income, retired shoe worker whose property taxes keep going up. She has a modest pension, social security, maybe a little bit from what her husband left when he passed away 20 years before. She needs some help. She needs double the homestead exemption and this bill will provide it. She needs the first \$15,000 of her property taxes exempt. This bill will provide it.

Maybe it is Jim Warren, my neighbor, a retired military person who also receives the military property tax exemption. You know what? He is over 65 and this bill will give him not only the \$10,000 of property tax exemption he gets as a veteran, but another \$15,000 of property tax exemption because he served our country and because he is a senior citizen and he is living on a fixed income. You know what? Jim Warren deserves it. He deserves for us to act.

We all want to fund schools. This bill will provide an additional \$25 million of school funding on top of the \$15 million we provided last night when we proudly passed the '05 supplemental budget. That is \$40 million of state aid to local schools, your schools, each and every one of you. What does that mean? In Augusta that means another \$976,000 of education funding. In Belfast it means another \$250,000 of education funding, state aid and in Bangor, another \$573,000, in Brunswick, another \$670,000, in Mattawamkeag, another \$476,000. That is real money in Mattawamkeag. It is real money in Augusta. In Waterford it is \$730,000 new education dollars to provide a first-class education to the kids in Maine. In Sanford there is another \$600,000 of education funding. We don't have to ask the voters if they want the additional \$600,000 of education funding in Sanford. All we have to do is have the courage to come out of that corner, that safe place, and vote. Vote right now for property tax relief and education funding.

This plan delivers it. It also delivers a 50 percent increase in the circuit breaker for those people who pay more than 4 percent of their income for property taxes. Those people who have the hardest time meeting their property taxes. We increased the maximum reimbursement from \$1,000 to \$1,500 and renters, yes, they pay property taxes too in Portland, Lewiston and Bangor. They just pay it in their rent. It is there. We increased the renter relief reimbursement from 18 percent in the circuit breaker to 20 percent.

Most importantly in this legislation we recognize that middle class people, the people that go to work every day who feel like they are paying for both ends of the spectrum, they are helping the rich get richer and they are paying for the folks that are at the bottom end. In Maine, we do look out for our neighbors.

This legislation increases the circuit breaker eligibility up to \$60,000 for a single household and \$80,000 for multi-member

households. That is almost double the income eligibility for that we currently have in state law. That means that real working people, middle class people, people that pay the bills in our state, will get relief on their property taxes.

There is always a but and people will say, yah, but, yah, but, yah, but where does the money come from? It comes from taxes on tobacco and alcohol, the two single most important factors in our exploding health care costs here in the State of Maine. I would say these are discretionary items. They are not necessities. They are items that people choose to buy. It will increase the cigarette tax to 50 cents. You know what, that means probably that the number of kids who start smoking will drop from the 50 percent reduction we saw down even lower than that. I say that is a good thing. It is just a lucky byproduct of the fact that we are going to brave and give property tax relief and education funding to the people of Maine.

There will be a tax on alcohol. The bar tax, the tax on cocktails in bars will go from 7 percent to 10 percent. This is one of the most highly exportable taxes that we have. One does that mean, exportable? It means that tourists, people on our coastal and lakefront places will help us provide property tax to Mrs. Hanley and to Mr. Warren. That is what that means. It means that the rich people who go to those resorts and to the ski areas will help the working class people of Maine educate their kids. That is what that means.

Yes, it is going to increase the price of a bottle of wine by 7 cents and a six-pack of beer by 13 cents. I don't think that is too high a price to pay for this Legislature acting on the question that the people of Maine have asked us. What are you going to do about my property taxes? I think that is a very reasonable price to pay. Thank you Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Old Orchard Beach, Representative Lemoine.

Representative **LEMOINE**: Mr. Speaker, Men and Women of the House. The package that is before us is indeed tax relief. It is indeed what we have been waiting to deliver. It is indeed the only action available before us at this time that provides property tax relief and that provides education funding. We must act on it and we must act on it tonight. What we have before us is the opportunity to make choices. It is our obligation as elected officials to make those choices. The choice being made in this legislation is clear. Is it school and home or alcohol and smokes? The choice is clear. Please support this legislation.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Scarborough, Representative Clough.

Representative **CLOUGH**: Mr. Speaker, Ladies and Gentlemen of the House. Do we really believe that increasing taxing and spending is the way to approach tax reform? I don't. From the results of a questionnaire that I recently sent out to constituents in my district, they don't either. As a part of that survey I provided a list of potential ways to deliver tax reform and asked them to prioritize these items from one to 10 with number one being the highest priority. The list included a broad range of possibilities. It ranged from lowering the personal income tax rate to broadening the sales tax base while at the same time increasing the present 5 percent sales tax to 6 or even 7 percent. Let me share with you the three top priorities. Number one, cap property tax rates and assessed values. Number two, amend the Constitution of Maine to limit spending growth at state, county and municipal levels. Number three, lower the personal income tax rate. Other options got very few responses. I suspect that survey of the voters in your district would produce similar results.

The important point that I want to make, however, is this. I didn't hear from anyone, nor have I talked with anyone that has

suggested raising taxes and increasing spending as an acceptable way to provide tax relief. The bill as proposed to you tonight would increase the cigarette tax by 50 cents a pack. That is an increase of 50 percent. It would increase the tax on liquor sold in licensed establishments from 7 to 10 percent. That is another increase of 50 percent. It would increase the tax on cigars from 16 to 20 percent. That is a 25 percent increase. On smoking tobacco the increase would be from 16 to 100 percent and that is an increase of over 600 percent.

The tax relief in this bill is targeted to a few. For example, you would have to be over 65 years old to participate in the expanded homestead property tax exemption. This isn't the kind of tax relief that my constituents have been talking about. Ladies and gentlemen of the House, is this what your constituents are looking for in tax reform? Please join me in defeating this proposal. Mr. Speaker, I would request a roll call.

Representative **CLOUGH** of Scarborough **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED**.

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

Representative **COLWELL** of Gardiner **PRESENTED House Amendment "B" (H-962)**, which was **READ** by the Clerk.

The SPEAKER PRO TEM: The Chair recognizes the Representative from York, Representative Andrews.

Representative **ANDREWS**: Mr. Speaker, Ladies and Gentlemen of the House. I don't quite understand this. We are going to provide tax relief with another tax. This just doesn't compute with me. Having said that, let's go onto the tax that we are going to institute. A tax on cigarettes and alcohol, this is going to proportionately hit our lower income people higher than our other individuals. I live in the Town of York in York County. I can assure you now that we have a steady stream of York residents and Cumberland County residents streaming over to BJs in New Hampshire to buy their cigarettes. I think what you are going to do with this proposal as far as my businesses in York County, you are not going to do much for us, but you are sure going to help the income in the State of New Hampshire.

I have heard from my businesses in the Town of York, we are a tourism town, tourism is one of the biggest industries that we have in the State of Maine. I have already been informed by many of my businesses and some of them are pretty big businesses that in a way we are passing on an unfunded mandate to these businesses because they are now going to be obligated to keep two separate sets of books to deal with the change in the alcohol taxation. We are really helping small business in Maine. I would say to you that this is not something that is going to be beneficial to our lower income people, beneficial to many of the counties in the State of Maine and it is not going to provide meaningful tax relief.

As an added factor in this, I looked at the revenue papers that we got and our revenue coming in from cigarettes is down. Do you think this is really going to promote more income along that line? Thank you.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. We have heard a lot about courage. Let's be courageous. I am trying to keep my voice very low key so you will have to listen to me. For six years I have sat in this House and I have heard about tax reform. I can still hear Representative Bonnie Green's voice as she sat at the end of this row and echoed next time. We always run out of time. It is always at the end of the session. Next time when we come back we will have more time to do meaningful tax reform. We get back here and the same thing happens again. We run out of time.

Here it is 11:20 in the evening and we hear about courage. I have reflected long and hard on this. I have scars and wounds because I dared to talk about the real issues that we are doing here. We don't have the courage of our convictions. We are not taxing those people who need to be taxed.

When we hear about tobacco and alcohol, it is like playing to the cheap seats. We keep going to those same cheap seats over and over again. They are sins you know. They are sin taxes. The real sin is that we have an Executive on the second floor who boxed us in and is hanging us out to dry.

The SPEAKER PRO TEM: The Chair would remind members that it is inappropriate to make references to the motives of the Executive or to members for that matter. The Representative will refrain from doing so, please. The Representative may proceed.

Representative TWOMEY: Mr. Speaker, I will try to stay on focus. The two reasons that were given for the exploding health care costs were tobacco and alcohol. The real reasons we have exploding health care costs is because we have poverty. Those people who have two jobs cannot afford to buy a ticket to go to Europe or have a summer vacation this year. What they do, however, is buy those cigarettes that they are addicted to, thanks to the tobacco companies and the money that we were supposed to get from these tobacco settlements was supposed to go for cessation, to help these people get off this and to go for our health care. It is about poverty because we don't have the courage, you know, the courage we talk about when go to Oz to get some courage, to broaden the sales tax, to put tax on things that are exempt, things that we have taken time to talk about at the Armory for months and months. We talk about unity. We talk about coming together and yet if we branch off, we get scolded. We get told we are disruptive. When our honorable counterparts try to come and help us along, they have to leave.

I have been getting these on a daily basis. That is my lobbying. Lobbyists do not lobby me because they know that when I believe in something and I have done my homework on something, I am not going to change. It has been one of the greatest things for me here. I can walk through these halls. This says, please oppose the increase in cigarette tax. I was home this week and I received calls from my small businesses. Many small businesses who say to me, "Joanne, every time you increase a tax on cigarettes, it hurts us. We lose money and they go to New Hampshire to buy them." They are still going to buy them, you see, because they are still hooked on them. Because of the addiction and that we don't put the money towards helping them with the cessation, they will be willing to give up their milk or whatever it takes because they need those cigarettes. They are hooked. It is a drug. Those are the poorest in our state. They can't get off it. It is a sin after all, because we don't have the courage. I will not carry the water for someone who has put us in a box and said no new taxes while we cut brain injured people and many other programs. We have the money. It is all about political will and what our priorities are. While all this sounds good, there is no money. It is fiscally irresponsible. You don't want to get into the morality, the sin tax, then let's talk about where we are going to get the money to fund it. We are going to keep raising those taxes so less people will buy. They will go to New Hampshire so in year '02 and '03 there will be such a structural gap it won't even be funny just to get us through. There is an election you know.

I didn't come here for the next election. I came here to do the people's work. They want and deserve meaningful tax reform, not band-aid approaches. We need to increase circuit breaker and homestead. I think these are honorable people. They had honorable intentions, but it didn't end up so honorable from

where I was sitting. The bully tactics were disgusting. I think the Speaker's bill was well intended. I don't question his integrity, but I do question what we have had to go through and the tactics that we had to go through. I sometimes wonder if we live in a democracy. It is a sin tax in more ways than one. We keep going to that well over and over and over again because we don't want to broaden the sales tax. God forbid we tax cruise ships. God forbid we tax skiers. Disposable income, the professor from the University of Maine, the economics professor I think said it best. "If you are counting on future revenues to bail yourself out, it is supply side delusion." Mr. Executive, I am not going to march to your drum. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Old Town, Representative Dunlap.

Representative DUNLAP: Mr. Speaker, Ladies and Gentlemen of the House. It has been a long and sometimes rocky road these last eight years that I have been here. Among the first things I was informed of in my quest for office by my then prospective constituency was the need to do something about escalating property taxes in the State of Maine. I have heard it continually over these last eight years. What we have done over those years is we have worked on that problem. We worked on that problem directly, indirectly. We provided half a billion dollars in tax relief over those eight years. What we have learned is that it is a moving target. Times change, the needs change and we must change with those times. Through it all, the theme has always been and continues to be tonight, what must we do to provide vital services to the people who most need them? That has been the thematic of tax policy in Maine as far back as I can find.

For some unexplained reason, I felt curious about the history of tax policy in Maine. I went back and read quite a bit about it. That has been the vein that has run through the history of taxes in Maine. It is, how do we find a way to solve the problems of the day? I think that what we are discussing tonight is a matrix of solutions to a current set of problems. When we began this current legislative term there was a speech given on the floor of the House. A brief piece of it is this as follows: "You know some people have come up to me in recent days and said that they feel sorry for us in the Legislature. They say things like, gee, won't be easy. Are you sure you want that job? It is going to be tough. I don't feel that way. No, our jobs aren't tough. Tough is getting up at 5 a.m. and punching a clock at a mill. Tough is helping a family cope with Alzheimer's disease. Tough is making the lobster boat payments after the season is over. Tough is what Maine working people do every day. The list goes on and on. Let me tell you that showing up here in the Legislature and working together to solve problems, that isn't tough. It is an honor and privilege. We can succeed together and get it done." That is from the first speech that the Speaker of the House gave to this chamber.

I think that what we are coming to tonight is what the fruition of those words will bear. We are making manifest our original goals on the first day of the legislative session. We are solving the problems of the day and yet keeping a weather eye to the future. This is going to be a continuing dynamic long after I am gone, which will not be much longer.

The former Representative from Monmouth, Representative Green was right, next time. It is always going to be next time. We must never cease work on these issues, but we must never despair in that work. In that spirit, we must pick up the rope now and pull and bring the people of the State of Maine to the brightest future we can provide to them. That is our duty here. I could write a tax plan and I would find great satisfaction in the product and I doubt any of my 150 colleagues in this chamber

would find very much not to scorn at. We could all come up with our own plans that we would find viable. The key is finding something that we can all embrace together and take forward. That is where we all are tonight. That is why I am supporting the pending motion. I would hope that my colleagues would join me.

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

Representative BRUNO: Mr. Speaker, Men and Women of the House. I have heard the word courage and courageous a few times here tonight. I looked up the word courage in the dictionary. I don't think it is very courageous what we are doing here tonight. I think it is the easy way out. I think what we need to talk about is fortitude. If you look up the definition of fortitude, it talks about having to deal with adversity in a courageous manner. It means spirit of mind to take on adversity. That is what we need in this body. I find myself agreeing with the Representative from Biddeford tonight. We don't have the fortitude to do what needs to be done. When you have revenues in this state growing at 8.3 percent and you say that is not enough, we need more, that is the easy way out. How many of your incomes grew by 8.3 percent last year? How many? If they did, congratulations, you did better than most people in the state. Many people in this state lost their jobs and now you want to tax them more. They have no money so let's hit them again. Is that fortitude? Fortitude is getting this side of the aisle talking with that side of the aisle and agreeing to something in the middle and that wasn't done. In two years that wasn't done. In 10 years up here we studied this issue to death. We just study and study and study. Why do you think I vote against every study commission that comes through here? Nothing gets done. You don't need a study. You know the problem. You know how to deal with it. Stop spending. That is the problem here. We lack the fortitude. Do you remember the mid-90s up here? Do you remember a \$350 million surplus? I do. Do you remember any discussion of tax reform at that time? No. Man oh man, it was like we all drank a bottle of grape juice and went wild. I hope you had a good time spending it, because now you have to find more of it. When you drank that bottle of grape juice you were only paying 7 percent at the time and now you are going to pay 10 percent. The time to do tax reform is when you have the money. You stop your spending. If you say you are not going to spend and I can give it back to the people, the people who earn it every day at the mill, the people who work for me, the people who work for you, who struggle paycheck to paycheck and we are saying we are going to take more of it. We need to spend more.

This is not about courage, ladies and gentlemen, it is about desperation. We are desperate to do something at the last minute when we have had two years to do something. Desperation leads to really foolish decisions. We have \$3.1 million on the Appropriations Table right now. What are we going to do? Are we going to put it away? No, let's spend it. What are we thinking? Maybe we will come back here in a few weeks, a few months, having to deal with this issue. Maybe somebody will have the fortitude to put us in a room and reach an agreement, maybe. Thank you Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Sorrento, Representative Bierman.

Representative BIERMAN: Mr. Speaker, Ladies and Gentlemen of the House. I am not going to attempt to address this whole bill, because it is very complex and very large. It is a daunting task to follow the previous speakers. I would just like to give you a sliver should this bill pass what a direct affect it will have on one small business in my community.

It is a successful business to date, small farm winery. It is truly a mom-and-pop operation. It is a husband and wife team

that started the business several years ago. They have since won several prestigious awards, wine awards. They produce a very high quality wine from fruits that are indigenous to the State of Maine. They have committed themselves to the State of Maine part of the value added to Maine agricultural resources. Right now they have been in contact with me on a regular basis. Currently they pay on the federal side, they pay the reduced rate, special occupational tax, \$500 a year. That is just so they can produce. That is on the federal side. Then they have their state licenses. Should this legislation pass, we have an excise tax imposed on the privilege of manufacturing and selling wine in the state, 90 cents per gallon on all wine other than sparkling wine. This mom-and-pop operation that employs six people in my community will find it very difficult to continue their operation. They are struggling right now. They have a high tax burden, not just on their business, but on their property. They live on the coast of Maine. There are very few of us left on the coast of Maine that I guess you would call locals. We are getting down to the wealthy retirement communities that spend two months out of the year here.

This is just one little piece, one micro-causum of the direct affect should this legislation pass. I just wish that all the members would consider and look closely at the direct affect on the communities in this state. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Kossuth Township, Representative Bunker.

Representative BUNKER: Mr. Speaker, Men and Women of the House. I am not sure if the good Representative in the corner is keeping score tonight on time limits and what have you, but sit back, relax, take your coat off. I am not going to be short or brief. I have been here 10 years off and on, ladies and gentlemen, and I have been just like when I told you about waiting for essential services and program and then to finally come out of the hopper that was in the process for about four years before I got here. We finally have seen that come to fruition and move forward. We are going to see the benefits of those actions that took so long to do. We couldn't get the fortitude to do it until the crunch and the right pressure was put on in order to move that package and roll it out. We all know that education funding was driven by cost. The more you spend, the more you get. How did we fix it? We collectively got together and fixed it.

Ladies and gentlemen, both sides of this aisle have got to come together and help us fix the tough fiscal, being responsible, problem that was mentioned down in the corner. Ladies and gentlemen, it isn't spending. How many times have I heard in the last month or two about spending? What a nice buzzword for the next election or whatever. We are spending too much. That is the problem. We are spending too much. I have been here off and on for 10 years, ladies and gentlemen, when we got here there was a \$5 million unpaid phone bill on top of a zillion dollars worth of unmet needs in the State of Maine, including tree growth not being reimbursed. The jails weren't being reimbursed. Revenue sharing wasn't being reimbursed. We haven't got education there at 55 percent yet. My God, I could go on and on and on forever. Were we in a good time? Did we have good fiscal times when the dot.coms were doing great? Income was rolling into the state and God love ya, we did. What did we do, both sides of the aisle that says that we were not being fiscally responsible, each and every one of us that has been here for any period of time, collectively came together in majority budgets and owned up and started paying our bills to the State of Maine, to our towns and to our citizens? If you, ladies and gentlemen, have been here for 10 years, you will find out in today's dollars that we spent \$850 million in giving money back to the people or

to the businesses in the form of tax refunds, revenue sharing, school funding, BETR, sick tax or some other darn thing.

Ladies and gentlemen, if we have a \$900 million shortfall for next year, it doesn't take any brain surgeon to figure out why we have a shortfall. Anybody in this room want to give up two days of pay? I shouldn't talk about that in this room, because we all give up too much pay to come here. There is nobody out there in this real world who would say that I am going to stay home two days a week and I am still going to pay the bills at the end of the month out of reduced income of two days a week times four. We did it because we thought and the experts and the economists were giving us projections. The good people on both sides of this aisle and in Appropriations, I love them because of the hard work they do, used to hold projections and they helped us own up and pay our debts and our responsibilities to each and every one of the citizens in the best way that we knew how.

What happens? Close your eyes a minute and picture the rollercoaster in your mind. Everybody knows that this narrow tax base that you and I disliked so much for the last 10 years is that rollercoaster going up and down and up and down and now here is our time to be at the bottom. There was a \$900 million last year or \$1.2 billion. We cut that in this biennium. If anybody in here dares to challenge that we didn't cut spending, I don't know what darn room you have been in for the last two years. It is crazy to even bring that word spending up in this body at this time in this last two years of this biennium. It is foolish. At the same time last year I think I had to get up and say something that I didn't want to have to say because of the guy on the second floor. I don't want to break the rules and I don't want to say that.

What happened in our first \$900 million shortfall the first thing they did was cut all the property tax and all the relief efforts that we started to put in place to pay back our bills. They were all slashed until somebody got up on the floor and I think I was one of them and said, where is the beef? Where is the relief that MMA proposal that was going out by itself until taxation got the competition and then we got the third option? Until that happened, ladies and gentlemen, and everybody went to neutral and went back in their little corners and did some little huddling, magically the \$7,000 homestead exemption that I feel very personally responsible for in 1996 and 1997 and in my rural district that trailer with one acre of land, that is 25 percent of their property tax and I am darn proud of that.

We have in front of us now something that I am very proud of too. The homestead is being increased and doubled and helping the elderly. This is what I helped start eight years ago. I put a bill in and wanted to increase it to \$25,000 so we don't have to send to our snowbirds to Florida and we can keep our people here that pay their taxes and their excise tax and live here and let them go for a couple of months, but keep their money here, their income, their auto money here. No, they got laughed right out of the room. We had plenty of money as the good Representative indicated in the last eight years at certain times. We did some really wonderful things. We pumped money into GPA and we owned up and started paying all our bills. Anybody in this room have a clue whether we paid all our bills yet? Have we owned up to our responsibilities yet, the money we owe our people out there on the street that we have in statute? You are darn well right we don't. We haven't paid that yet. We are spending too much. When you pay your bills, ladies and gentlemen, whether it comes in from taxation and you give it back to a citizen or your give it back to a business or you give it back in a sick tax or a hospital or in whatever form you are giving it back, revenue sharing, that is spending ladies and gentlemen. I don't mind spending money when it goes back to the people that it is

supposed to help. Spending isn't even on the table here today. It isn't a tough job doing that.

I do agree it is a tough job to be fiscally responsible. I don't think because of what has happened so far this year in either proposal I see from either body, because God love ya, I will vote for either one of them. I don't care if we raise sales tax or we raise sin taxes. Many of you folks are selectmen or on certain boards when the school commitment came into you, you turned around and looked at each other. I have been to 30 town meetings in my district and it takes two seconds to approve hundreds of thousands of dollars for the schools in one whack and one quick vote and they argue over a \$50 bill to the community chest somewhere. Here we are doing the same thing in this body.

What we haven't done, ladies and gentlemen, is own up to our responsibilities and be fiscally responsible. I don't mind the proposals from both bodies. We have great needs and great wants and the people that we are going to serve here are the ones nearest and closest to my heart. What did we go through this year and last? What did our poor Appropriations people on both sides of this aisle had to do down there from daylight to dark seven days a week trying to protect the most needy and our most vulnerable and the people that really needed the services that we didn't want to spend on, cut spending, we don't want to cut spending on that stuff. What do you do when you cut \$800 or \$900 million from your pocketbook or you told somebody you don't want to make money anymore so keep \$900 million, I don't want it. Things go a little sour as that rollercoaster down, the very clear answer to that is our narrow tax base.

There is not one person in this room that will dispute with me the fact that our problem with our rollercoaster is the narrow tax base that we have. I am very sad to stand here before you today and see neither one of the proposals coming before this body broadening the sales tax in some incremental way. I have been here 10 years and I never asked for the whole enchilada or the whole fix in one motion in my life. I know I have won many, many battles. Forestry is a good example after 1A, 2B and 3C and all that. Today we passed liquidation harvesting. We couldn't have done that six or eight years ago when I was a chair of that committee. It is done now and we have moved great strides ahead incrementally. What I want to see in here is one thing.

If you have the amendment in front of you, you will see we are spending a relatively small amount of money in this fiscal biennium to provide a modest amount of property tax relief, but we promised great rewards in the out years. We have been doubling for certain people and helping our elderly and doing some great things in circuit breaker and all that. Ladies and gentlemen, let me ask you one straight question for those of you who happen to come back here. I might not make it. I have a tough opponent and if I stay home it won't hurt my feeling any. While I am here, I am going to do the people's work. When you come back here with a billion dollar shortfall, tell me what kind of budget your Appropriations Committee is going to get from someplace on a different floor in this building? The first thing they are going to do is whack everything that they did last time. They cut the homestead exemption. They cut all of these programs that we think are so important to ourselves and our constituents.

What do you do when you have a billion dollar hole and you have to close it and you made a promise that you are not going to raise revenues. You are in a box. We are the most open and we have always been the body of reason and the body that has always stuck our toes and our heels in and held on in force either downstairs, Angus King and I got along real well, Governor King. I have never in 10 years of being here ever had this tug and pull



and staying here well into four o'clock in the morning or into Saturday. Rule of thumb, if you start on a Monday, you don't leave until Saturday. We are only into Thursday so take it easy folks.

I know the other body has problems, but we can leave. We have no leadership right now. There is not one body in this building, of the three involved, the Executive, the Senate and us, that is truly leading in the best interest of the State of Maine. We can be that one body.

I took some time the other day. I get bored when I am trying to be quiet. I don't speak at all, except occasionally. I went through all the tax exemptions that our good tax folks have to wrestle down there with those \$600 suits surrounding them, three to a person. I just made a short list of about \$200 million of those exemptions out of there. I would be a very happy man today if we voted against this proposed bill as it stands right now, asked the good majority leader in the corner or the minority leader in the other corner to respectfully ask to reconsider and table and then go out and look at this short list of expansion of the sales tax base.

I will give you a couple of examples just so you have an idea. You remember my motto. I don't think any of you do. Reward those who choose to call Maine their home, pay their taxes here. What do you do? You have a short list of tax exemptions. You go down through them and you say, how can I be like Jeb Bush and George Bush in Florida and Texas and make sure all my schools are fully funded? I make sure that Disney World charges \$60 a ticket and I guarantee you that at least \$10 of that \$60 is going right into the schools. They have an entertainment and amusement tax.

The SPEAKER PRO TEM: The Chair would remind the member and others to confine their remarks to the pending question before the House, which is adoption of House Amendment "B." Please do not stray from the topic. The Representative may proceed.

Representative **BUNKER**: Thank you Mr. Speaker. I will go in your direction, Mr. Speaker, but I would continue and say that I am directly on topic. I would respectfully submit that taxation is the subject here and that the states that are doing well in funding the necessary and essential services to their people are doing it by the people that come there to the great State of Maine to do our natural resources and come here and to enjoy all the great things that we have. It is like a free ride. Come on in. We love what you pay for whatever you do, but we do not do like all other states and make sure that if we have something special, then those people pay their fair share for enjoying the great resources that we have.

If you go down through the short list, you are looking at amusement and recreation, \$60 million in tax exemption, just one. If I came out of here with just that one tax exemption expansion of the sales tax base and we didn't spend it on anything and we booked \$60 million this year and we booked \$60 million next year, now we have the next biennium and we are \$180 million ahead of an \$800 million shortfall. I know I could go home very proud no matter what else is in this bill, sin tax or a penny tax, and say, folks, I know for a fact that on this fiscal note on the out years I provided you with enough money that they are not going to take away what we promised you. You know how people in the State of Maine really think that we own up to our promises. Anybody get the hint about that. You promised us this and we didn't get it. You promised us 55 percent. You promised us tree growth. You promised us reimbursement of our schools. It goes on and on. I don't want to leave this room without a small token expansion of the sales tax base so that we can leave here with a head up and say that we have done a couple of things.

There are three pieces that we have to do for real tax reform. One is broaden the sales tax. We all agree that has to be done to take the rollercoaster out. Number two, we need to take care of our property tax problem. This is a wonderful bill. I can't speak highly enough of this bill. I will be voting to pass this bill if you send some of these folks back to do a little tinkering for an hour or two. The third thing when we come back next year all they have to do is work on the income tax bracket and get that up there where it belongs because everybody on both sides of this aisle know how oppressive an offense that is. That is true tax reform people. That is what our people want. If we don't do it, you know darn well that those two proposals that are out there in September are going to whoop us. When they whoop us, we deserve it.

In closing, what I would respectfully ask is that everybody oppose the pending motion and then respectfully ask one of the two corners to immediately reconsider, table, put us in recess and go put that small token piece in there to be able to go home and tell our folks we got some money that we allocated that we didn't spend. We are fiscally responsible and I can guarantee those elderly people that they will get that double homestead. They will get that extra homestead money. I can go home feeling very secure in my heart that even the good gentleman on the second floor would be hard pressed to take it away. Thank you ladies and gentlemen. I am sorry for such a long talk.

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

Representative **RICHARDSON**: Mr. Speaker, Men and Women of the House. I have before me a document that indicates what a spending problem we have had of late. I remember the good Representative on Appropriations, Representative Millett, said that we have been the deappropriation committee. I asked for the figures to find out what that meant. In fiscal year 2001/2002 negative 3.01 percent appropriation. In 2002/2003 negative .97 percent. In 2003/2004, 4.01 percent. In 2004/2005, .33 percent increase in appropriations for a total over those fiscal years of 3.6 percent so that is a spending problem. You can't have it both ways. You can't say we have a spending problem and then do nothing at all about tax reform or relief.

You know people want action now. I am here and I am proud to vote for this now. I will tell you why. When I get up tomorrow morning people are going to ask me what I did for the schools in my district. I am going to say we didn't do anything if this bill doesn't pass. What did you do for the senior citizens of the State of Maine, the homeowners? Nothing. What did you do for those low and moderate income folks in Maine, any relief for them? No, no relief for them. What did you do about the spending caps we have been talking about? Nothing. We didn't do a thing. You mean you didn't vote for this. You didn't support it. You didn't support senior citizen property tax relief, relief for homeowners, education, local school, which help fund and keep down your property taxes. You mean you didn't do that. No, I didn't do that. You didn't vote for the spending caps. You mean those spending caps that are going to keep it down for me, the prices that are being driven up, property taxes and municipalities and counties. You didn't do that. I didn't do that. I didn't do anything. I laid down conditions though. I talked about what I wanted, what I needed.

I have never met a perfect person. I have never met a perfect document. I don't think it exists. This is the best we have to work on. This is it. There is no tomorrow. I would ask you this. I told you what in the last four years the appropriations were. It was 3.6 percent over four fiscal years. I told you that. Where are we going to get the money? We cut to the bone. You know what

was on the chopping block, children's mental health, brain injury, help for people who have brain injury. That is next folks. That is next. That is where we are going unless we do something.

I was here when we took the sales tax down from 6 to 5.5 to 5. I voted to eliminate the snack tax. I voted for property tax relief for citizens in the State of Maine. I did all that and I was proud to do so. Tonight I am going to be very proud to raise cigarettes by 50 cents and alcohol that hasn't been raised in a long, long time. I am guilty of doing that. I will go home and I will tell people that I am guilty of that. You bet I am. I tried to bring you property tax relief. I tried to bring you education funding. I tried to bring you some caps on spending. That is what I tried to do. I will ask you tonight when we are all done, what did you do for the people of the State of Maine? If the answer is nothing, I ask you to reflect on that. Is that really where we want to be now or are people asking us to do something.

I have a good friend that said to me, John, I want you to try to do something. It is important that you try to do something. I don't care if you fail, but try. Don't give up. Don't suggest that this isn't perfect, because it is never going to be perfect. Join me on this, please. I want you to adopt House Amendment "B." Mr. Speaker, when the vote is taken, I would like it taken by the yeas and nays please.

Representative RICHARDSON of Brunswick **REQUESTED** a roll call on the motion to **ADOPT House Amendment "B" (H-962)**.

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

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 After Midnight
 

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The SPEAKER PRO TEM: The Chair recognizes the Representative from Freeport, Representative Bull.

Representative **BULL**: Mr. Speaker, Men and Women of the House. I rise to urge respectfully your support for the pending motion. I am in my fourth and final term here. Thankfully for those of you who are returning this is probably my last floor speech that you will have to put up with. When the good Representative from Raymond, Representative Bruno, was talking about those glorious heydays of a couple sessions ago when we had surpluses, I don't remember the exact number. Yes, we did have wonderful surpluses. We did not just frivolously spend all that surplus. We did put quite a bit of that away in the rainy day fund, but more importantly we appropriated millions and millions of dollars of tax relief in that biennium. If my memory serves me correctly, it was somewhere in the range of \$80 million in tax relief. That is almost double what this package is here. It is easy to provide tax relief in times of surplus. The money is there and you have just dedicated it to tax relief. What is hard and what is challenging is providing tax relief in times of fiscal constraint. Tax relief was no less important in times of fiscal constraint. In fact, it is even more so important today that we provide some meaningful property tax relief. In this bill, in this amendment, it provides that property tax relief and it does it in a way that is revenue neutral by shifting the tax burden from the property taxes onto the cigarettes and alcohol.

For a good percentage of the people in Maine, they will realize an actual reduction in their tax burden with this proposal. That is critically important for the people here in the State of Maine, for the people in Freeport and Pownal who keep pleading with me to please do something about the property taxes. They are the people being priced out of their homes that are not able to buy property in the towns in which they work. They are desperate and pleading for relief. We are here to provide relief now, not five years down the road, not sometime in the distant future when we can experience and appreciate some extra revenue through potential savings. They are demanding relief now. We cannot wait until we realize some savings down the road.

In the past we have done things like lowered the sales tax, gotten rid of the snack tax, set up the homestead exemption, increased the circuit breaker, increased revenue sharing, increased GPA and on and on and on. Again, those were in times of surplus. It was easy to do. What we are being asked to do here now is much harder. We are not in a time of surplus and we do need to find someplace to fund immediate property tax relief. I am not good at math. I am not good at numbers, but it seems to me that it is impossible to provide property tax relief without finding the money somewhere.

I did want to briefly talk about some points that were raised earlier dealing with tobacco prevention. In fact, this state is doing a lot on tobacco prevention and cessation programs. We are projected to spend over \$30 million over the biennium on tobacco cessation programs. That is something that we are dedicated to and working on as well.

Ladies and gentlemen, I ask you please, it is critically important that we go out of here with something, to do something tonight. Is this a perfect plan? Absolutely not. I have spoken to the good members of the Taxation Committee. They know how I feel. This is meaningful. It is providing homestead, circuit

breaker, increased GPA. This combined with the other tax package, the package that came out of the Education Committee dealing with the essential programs and services, those together as a coherent unit, I feel will substantially help our constituents, those who are struggling to pay the property taxes from year to year.

Please, I ask you to please support the pending motion. Let us provide some immediate property tax relief to those who desperately need it here today. Thank you Mr. Speaker.

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

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. First, I would like to speak to the Representative from Biddeford. I think she is in her seat. I have got to tell you how much I admire you, because it is very clear what your principles are and you stick to those principles and you are not a chameleon. That is a very good example for the members of this House.

The second thing I have seen during these last two years, and I am just going to express my opinion, us dancing on the edge of censorship in this chamber. You may not like what we have to say, there is no reason to limit our right to say it. When we serve in this House, we carry a message from the people in our district and we have the right to express that. We are dancing on that edge of censorship and I am deeply concerned about the future if that continues.

To the issue that is under debate, the good Representative from Raymond had talked about the big surpluses. I think some of you who find after the last few days from the arm twisting that your palms are dragging on the ground have got to realize that those same people who are pitching tax increases to you when we had the big surpluses were desperate to raise taxes then. It was a novelty. We were awash in money and they would stop you in the hall and say they have a great idea on how to raise taxes. It doesn't matter what the cash flow is, there is something inside some people you just have to raise the taxes. You can't go to sleep at night unless you have raised the tax and raised that burden.

Some of these people, it is not the crisis we are in right now, they just can't help themselves. I checked a little while ago and on Main Street in Concord, New Hampshire, the lights are on. Governor Benson called the trophy company in New Hampshire and said I have some work for you. I would like to have it delivered before the Maine Legislature goes home. It is a big trophy to go over there with the other one. It says, "Thank you from the State of New Hampshire to the Maine Legislature." If you don't believe what is going to happen with these taxes you are looking at, then you missed the clipping from the papers this week talking about what has happened to our Maine gas stations in York and Cumberland and Oxford Counties. We have a different mix, a spread in the gas tax, they are able to offer gas at 6, 8 or 9 cents a gallon less than in those three counties. If you have a gas station in those three Maine counties, your business has dropped. That means that your spread, your margin, your profit, your volume has been reduced and in some cases you may have had to cut back hours or lay off people. The article went along and gas station owners on the other side said not only are we drawing business, we are drawing so much business from Maine that it is hard to keep the money in the cash drawers. That is what you have done with higher taxes. Now you are going to turn around and do it with tobacco. You are going to do it with alcohol. You are going to see the trophy up on the shelf because it just seems like we make New Hampshire look much smarter than they really are. It is because of the stupid policies we follow in terms of the burdens that we lay on Maine people. That



engraver is working tonight saying thank you Maine or at least some of you in the Maine Legislature.

I have seen a tactic in the last 16 years that if you want to tax something, then demonize it first. Get up and talk about how terrible it is and the human good that is going to come. Why don't you just ban it and we will live in a utopia, just don't go halfway and tax it and say I feel good. Ban it and we can live in a great utopia where everyone is happy and no one has any problems.

If I am a Maine citizen and I pick up the paper in the morning, it is actually kind of ironic, we debate this after the paper has closed so they won't read it the following morning. I just wonder why we do that. The papers closed two hours ago on what is going to be in tomorrow's papers. When they find out that what you are going to do tonight, they will look and say, homestead. Isn't that what they cut by 25 or 50 or 75 percent, two or three budgets back? Now they say, trust me, we are going to increase the homestead. They are going to start thinking, flim, flam. They are going to hear the word circuit breaker. Isn't that the relief I get that I have learned when I have my every six month property tax bill, that after I paid the tax and my \$1,000 comes back, I hold onto it because it is how I begin to build for paying the next property tax.

You know what happened? It didn't come back in January, but the property tax bill came due in April because the state said that we can't pay you until after July 1. We are going to provide circuit breaker relief and they are going to laugh. We have circuit breaker relief and you can't pay the bill. They have to dig that much deeper than that \$1,000. I am afraid of the damage that did in terms of where they had to find it.

A lot of people have talked about spending. Spending isn't a problem. Those of you who come back here in January have a very distinct problem. Everything that has been done, I can't keep track of whether we are in the fifth budget, the sixth budget, seventh budget or if it will probably be the eighth this summer probably not before November 2nd, but it will be sometime shortly thereafter. What we have done is one-time cuts. It is pools of money here and there, which don't translate to the following year and that is why you have a structural gap, why you have a deficit looking you right in the face. We keep hearing about pain. There is so much pain in Augusta. There hasn't been a lot of pain within Maine state government. It has been out there if you own a nursing home, if you are running a hospital, if you are a health care provider, a teacher or a student. That is where the pain has been. Tough choices, not, because we have stuck it to other people and we have protected this government here in Augusta.

I think what we have before us tonight is a flim flam and the Maine people are going to see through it. Six months from now if you pass this, you are going to see stories about in New Hampshire about how good the times are because Maine dollars are leaving the state instead of being spent in Maine businesses, they are going to New Hampshire.

I have heard from three or four speakers on the other side that we have to do something. Sometimes when you are in a football game and you get to the huddle and you have to do something, it is going to be pretty tough in the locker room afterwards, let's try to save face and do something so there is one bright moment.

From what we have seen and we have looked at in terms of this bill, you could call it a hail Mary pass, except there ain't no air in the ball.

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

Representative **BOWLES:** Mr. Speaker, Ladies and Gentlemen of the House. Here we are. Yogi said it is déjà vu all over again. It is how we end up every session. The last night, it is almost always the same thing. We spent our session and we huff and we puff. We make prodigious statements and make great promises. We deliver nothing. We always end up at the same place. That same place is a tax increase.

I heard the good Representative from Gardiner, our Speaker, he professed a great deal of empathy for our neighbors and I am sure he meant it. I want to tell you about my neighbors. They are located in Strafford County. They are located in Rockingham County. They are located in Somersworth and Dover and Newington. They are going to be the beneficiaries of yet another misguided attempt to do something to bring relief to the people of Maine when all we really need to do is exercise fiscal discipline and restraint.

We are going to help even more people. We hear quite a bit in this chamber about wanting to help the Native Americans. This bill is going to help the Native American. It is going to help the Native Americans in Onitca County in New York where the Mohawks are running the biggest shipment operation of cigarettes in North America and the UPS truck keeps backing up the back door of my business. When I look inside to help the driver unload I see cartons of cigarettes being delivered into this state. We are helping more neighbors.

I heard that much of this tax is exportable. Let me tell you what is really exportable because of this tax. Sales and jobs in southern Maine, at least, and I would suggest to you in many other places as well, that is what is going to be exported, sales and jobs.

We talk about an increase in the cigarette tax. We can tax our way out of our problems. A couple of years ago, I think in 2000, we added 24 cents to the cigarette tax. I believe it was 76 cents at the time and we brought it up to \$1. We were told that that 24 cents was going to raise \$8 million. When you combine that with the federal match, two to one, we were going to have \$24 million to fund the non-categoricals in the Maine Care Program. That was going to get us out of the hole, out of a problem.

Well, I believe in fiscal year '04 that the amount of money necessary in categorical is now \$88 million. We would now need \$30 million in a cigarette tax with a two for one match to fund it. The good Representative from Scarborough was talking about where he had sent out a questionnaire and he had gotten back some responses. I also sent out a questionnaire and I bet a lot of you did too. It is good thing because I know we all care about what the people back home think. We want to know and we want to address their concerns. I sent out a questionnaire and I asked this question. To cover present budget deficits, which would you prefer, reduced state spending, increase fees, increase income taxes, increase sales taxes? You know how they responded. You know perfectly well. I don't even have to tell you. Sixty-eight percent of the people said reduce state spending. Nine percent had a combination, reduce state spending and increase user fees if you must. Six percent said reduce state spending and increase sales tax. Not a single person suggested increasing the income tax, not one.

I submit to you that we can call this property tax relief. We can call it anything we want. Maine people will recognize what this is and they will recognize it for what it is. A lot of Maine people are born at night, but not many were born last night. They are going to know that this is a tax increase. It is nothing else but a tax increase.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Bath, Representative Watson.

Representative **WATSON**: Mr. Speaker, Ladies and Gentlemen of the House. I am in support of this measure, not because it represents tax reform. We know it doesn't. Not because it provides all of the property tax relief that our system, let alone our citizens deserve, because it doesn't. I am in support of it tonight at 12:25 after midnight because it is political reality.

I have had the pleasure of meeting at an ungodly hour in the morning with a group of people for the last several weeks under the quiet leadership of Representative Carr, the wisdom of Representative Joy, Representative Kaelin, Representative Davis, the equitable advise of Representative Peter Mills who is nodding off as we speak and a number of Democrats who will go unnamed to protect the innocent and one particular young man who has a very promising future in this body, the Representative from Rockland, Representative Bowen. I owe a great deal of gratitude and respect to those gentlemen and ladies for allowing me to sit in on those meetings. I have learned things about socio-economics. I have learned things about tax policy. I have learned things about the lives and experiences and professions of the people they represent. Most importantly, I have learned that with open communication comes compromise and consensus.

A plan was developed on those early mornings that combined the views of three parties in this body. It was a fine plan. The biggest regret I have of my political career is that that plan ran into a political wall and disintegrated before it ever reached this floor. Some of the best nuggets from that plan are in the measure that is before us. The other thing that I learned from that group is that political reality is just that. What you can do you do the best you can and when you can't go any further, you come back and try it again. If we don't do something, we can't go home with our heads held high. I cannot go back. This bill we have before us, we have heard the amount of money it might provide in expanded GPA. We can't question those figures. In my own case in the Town of Bath in terms of property evaluations and dropping students, we will net out with a \$3,000 loss if this bill passes. It prevents \$194,000 loss if it does not. It is not anything that I am particularly proud to take back. It is counterbalanced by what I would take back if we went back with nothing. This measure, in and of itself, will not defeat the Palesky referendum. It will not, in my estimate, unless something else is done, necessarily defeat the MMA referendum.

It is some meaningful property tax relief for those particular people that need it the most. In that regard at least we can be proud. We can only be proud, however, if this thing comes out as the House measure, not the House majority measure, not the House leadership measure, not the Democrat measure, but the House measure. I will only go back to the plan that we never saw to remind you that it also included revenue enhancement, a tax increase if you will. There was no other place to find the money. Believe me, that group tried to find it elsewhere. That tax increase was balanced in that plan by the suggestion of a Constitutional Amendment to cap spending. The combination of the two made it politically impossible. I think everyone that met and worked on that plan realizes that, knows it, regrets it as much as I do, but that is the reality of it. We must go home and give our constituents some real property tax relief. This is the only game on the table. If we don't do anything, while there is no promise that the people of Maine will think twice about the Palesky referendum, but if we do something, maybe they will. I don't need to remind you that if they don't, please remember to

pack your picnic baskets and fill your thermos bottles and I will see you in November at the train wreck.

Please support this measure. Thank you Mr. Speaker.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Rockport, Representative Bowen.

Representative **BOWEN**: Mr. Speaker, Men and Women of the House. I rise first to thank the Representative from Bath for his kind words about our group and to express my appreciation for the work he gave our group and the other members of the group as well. I want to thank them as well. I wanted to rise to answer the question that was laid before the body by the good Majority Leader, Representative Richardson, about what I am going to say when I get home in the morning, assuming we get home in the morning. What I am going to tell them is we sat through a lot of talk and there was a lot of talk about coming together and a lot of talk about not coming together and there was a lot of talk about having to do something and there was a lot of talk about courage. I want to go on record as saying that there was a coming together and there was a working together. There was a piece found in the middle. It was the courage that we lacked. It was a small group that the Representative from Bath made reference to. We were frustrated by the lack of emotion on this issue. We started meeting early and often. We tried to get a deal put together. This is what I am going to tell people when I get home in the morning. The deal was that one side would live with the constitutional spending cap that they didn't want very much and the other side would live with some extra revenue to pay for the tax relief of the kind before us, which they didn't particularly like. It was hard to swallow for a lot of us, quite frankly, but to us it was the only way that we could find a way out of this. We started going around and we asked some more people and we got some information and we started to sort of roll this thing out. That is where the lack of courage hit us in the face.

We went up the chain of command around here and we heard that you will never get support for that. You are not going to get any votes out of the caucus for that. You will never get any support out of us for that. We got a lot of, you are going to have to show us a lot of votes on your side before we show you any votes on our side. You have to show us a lot of support for that over there before we show you some support for that over here. That is sort of where it went to pieces. The pieces as the Representative pointed out are still in this package and all of the deals we have seen floating around here. They are still around, not all of them, unfortunately, but some of them are.

The problem is when we needed courage to make this happen and we needed it from the people who could make it happen, we didn't have it. Now we are left to punt. When I go home, that is what I am going to tell folks. I worked hard. I came over here at the crack of dawn. I got out of bed at 5 o'clock in the morning and drove over here. I worked with a group of people very hard to find a solution to this. I did the best that I could. I ran into walls that I didn't know how to move and it has become clear that they can't be moved or at least it doesn't appear that way. That is going to have to be my answer. We will see what people have to say. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Saco, Representative O'Neil.

Representative **O'NEIL**: Mr. Speaker, my good nocturnal friends of the House. The good leader on this side of the hall, Representative Richardson, is fond of watching me when I rise, because he never knows when I am going to throw him a curve ball. He hears me start off in a favorable manner and he thinks that O'Neil is about to make me look good and then I snap the threads on the ball and it spins and he doesn't like what I say.

Tonight, I am going to throw him a screwball. It breaks the other way.

I can list eight reasons why I don't like this amendment before us, especially given the geography where I live, given my background, given our situation, given the 35 years of impasse that have come and gone through this institution. There really have been that many years. I remember when I was first running for election in 1996 there was a good fella who toiled on the Taxation Committee named Guy Nadeau, the Representative from Saco. Guy whose district included Fun Town USA championed the amusement tax and paid dearly for it in the response of a highly energized proprietor at an amusement park in Fun Town. He was resolute about doing what was right. We are an impasse now. The conventional wisdom is if you walk down the hall, ladies and gentlemen, that we are about to get to the point where we throw this thing up against the wall at the other end, I am not trying to guess what the other body might do, that would be a violation of the rules, but the conventional wisdom is we are about to crash headlong into a wall for the sake of doing something.

I remember once somebody came into my committee, a colleague who still serves in this institution, not in this body and said 12 times in the course of the testimony that person presented about health care reform saying that we need to do something and proceeded not to offer anything concrete at all. We are impasse now. We are faced with doing nothing or doing something. We are faced with potentially keeping something alive. There is a mindset within this body that says we are right up against the end of the session. That may be so, but for those people, both in this body and outside this body, who remember the early '90s, it doesn't have to end now. We have a very strong mandate my friends. The difference is we have a Howitzer pointed at our heads right now. We all, all of us, do still want to do that something whatever it is. There are many different somethings that have been presented. One hundred and ninety-two bills came to the good Representative from Old Orchard's committee and he would come into the Chairs Meeting every morning with a hangdog look on his face. All I could think of was the first time I was elected here when the good Representative from Vassalboro, Speaker Mitchell, asked me what I committee I wanted to be on. I said, "Tax." She told me she couldn't do that. I have thanked her ever since.

Jack London wrote a short story called *To Build A Fire*. It is a great short story. It is about a fella who is traveling with a dog across the frozen tundra in the Yukon and it is cold. I remember the first time I read it. It was a hot night in July. It was 85 degrees. I got the chills it was written so well. He steps through the ice on a stream. A pitfall that he knew was there. He suffers several other calamities, tragedies, a frailty of human spirit that causes something bad to happen. He started to lose his way because he became more desperate. He stepped through a stream and got his feet wet. As soon as his feet were wet, he thought he was really in trouble. He took out his matches. He had 80 miles to go to reach the next town. It was 40 below zero and he proceeded to light matches. He didn't build the fire quite right, birch bark, little dry twigs from fir trees, the kind of kindling that will get it going.

I think that this Legislature in 35 years has built that kindling and established the base for a fire better than any other. As we stand here saying that the bell is about to ring and we are about to go, the other body is never going to go along with us, we can't just go home. We can go home, but my point to you my friends is that I can't stand a moral victory and I don't like doing something for the sake of doing something. At this point we have one match left. By the way, the protagonist in the story ended up with his

final match trying to light the fire and as it started to build the flames grew a little bit and he grew excited. Snow from a fir tree fell on the fire and distinguished it. He proceeded to cut the dog open to stay warm, another desperate measure. The next thing you know, he faded to black. I don't want to go that way, ladies and gentlemen. It is a great story. I suggest you read it on a hot night this summer after we have finished a good tax relief proposal. We can do this. There are a lot of great ideas. It hasn't happened in 35 years. While I don't like this proposal and I could give you eight reasons, I am not going to give you eight reasons because I have talked all of you into 16 reasons. I am not going to do it. The fact of the matter is we can disagree on the methodology by which we raised the funds to provide the relief, but the relief is largely in agreement among everybody in the building. There is good real targeted property tax relief here. Is it where I would like to be? Will I be proud to have done this and actually enacted it and sent it up against the Howitzer that awaits us later on? No. Does this keep alive the hope of success? Does this keep the snow from falling on the fire that we have built that is still going? You can feel it on your hands. It is a little bit warm. It is not out yet. It is late, but it is not too late. We keep alive our collective will.

To the good Representative from Belmont, I won't say I will hold my nose and vote for this, but if we keep alive that collective will that we all brought here to provide property tax relief and support the last match that we have at this moment, those last embers, those flames that are burning on the kindling that we have got. We know there is firewood. There are good sized logs all around. We just have to figure out how to assemble them to build a good fire. I believe in the good nature of the folks who have been elected to come serve in this building. It can be built. My friends, I just ask you to not look for what is perfect. I presented perfect last night. We might get back to perfect, but at this point don't just do something, do this. Let's move on. It doesn't have to happen and end tonight. Keep it alive. It is the best chance we have had in 35 years. Don't forget that. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Biddeford, Representative Beaudette.

Representative BEAUDETTE: Mr. Speaker, Ladies and Gentlemen of the House. I am the newest member of the House. You might think me idealistic. I have only been here for a couple of months. I don't have the experience that all of you have had being at this brinkmanship point in previous years. This bill is certainly not perfect. Being the obsessive person that I am, my wife would tell you that because when I come into the house and move the butter dish into the center of the table or move the remote on top of the TV Guide in the left corner of the table, I am sure it drives her crazy. Having something that is not as perfect as I would like it to be does drive me crazy. I don't like the idea of using sin taxes as the vehicle to generate revenue for what we are trying to do here. What we are trying to do here is deliver something that most of us agree on. We are increasing the circuit breaker, homestead, providing more GPA, providing a spending cap. You can describe what we are doing in a number of ways. When I was serving on the Biddeford City Council it was a common catch phrase that when the school board would offer that they would like an \$800,000 increase in their budget and then the City Council will come back and say that you can have \$400,000. They would say that you were cutting our budget. We may have been cutting the increase in their budget, but we certainly weren't cutting their budget. They were still getting that additional \$400,000.

You could describe what we are doing now as a tax increase. However, you could also describe it as a tax shift. Certainly there

will be some residents of the State of Maine who will be impacted by the fact that they will be paying more for cigarettes, more for malt beverage, more for wine. There will also be a significant element of the population of this state that will realize a tax reduction. I don't think I have heard the word reduction in any of the debates or speeches that were made this evening. There will be a tax reduction for some of the people that we identify as the ones that most need a tax reduction.

This is targeted tax relief. It is certainly not tax reform. It certainly isn't overall tax relief because there are some citizens of our state that will realize that they will have to increase the money that they spend in order to support their addiction as Representative Twomey has said previously or any of the other items here that we are increasing the tax on.

We also have reality that we have to deal with. The fact that I have only been here a couple of months, I don't have the experience that you all have. I really don't care about that experience or what previously occurred before. What I care about right now is the here and now. What do we do now? What do we do going forward from here? Granted this vehicle is not exactly what I would like it to be and I am sure that very few of us think it is exactly what we would like it to be.

It is what we have. As Representative O'Neil has said, there is a momentum here, be it as slight as it is, be it as much as I have heard discussion about failed process and flawed process and the frustration of not being able to do or go in the direction you would like to go in. This is what we have now. I think it would be very wise of us to take advantage of what we have now. Others talked about courage. Those of us who are in here for our first term, we now have to carry that forward. I have heard a lot of discussion about how trying to do meaningful tax reform has required courage that apparently failed to materialize over previous years. Those of us who are in our first and second terms and will be planning to come back here to serve again, we have to maintain that courage as we go forward to try and deliver the complete tax reform that we should have now. Previous Legislatures have started with that momentum and kept it and had somebody to drive it forward from the point where it started, where the kindling began to ignite that we wouldn't be in the situation that we are in now. We would have much better options that we would be discussing now. We wouldn't have, for example, the sales that is so easily affected by the volatility of our economy, because it depends so heavily on the sales of automobiles and the sales of durable goods. We need to start now. This is the vehicle we have to start with. I would ask you all to get into that vehicle and drive it. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Suslovic.

Representative **SUSLOVIC**: Mr. Speaker, Men and Women of the House. Out of consideration of my colleagues on the Taxation Committee who by this point in the session have heard more than enough from me, I will try to be as brief as possible. I do feel that I owe something to my colleagues on the Taxation Committee, Representative McGowan, the Greek Chorus of tax reform, never letting us forget the need, the appropriately named Representative Tardy, Representative McCormick who received the perfect attendance award in the Taxation Committee room, imagine that, Representative Simpson, the smartest one among us, because she was the only one who didn't ask to be on the committee, Representative Perry, just for being Representative Perry, Representative Clough, who kept us organized, which was no mean feat, Representative Courtney who never let the moment slip by to remind us that the real problem is valuation, Representative Lerman, always fighting the good fight and our

Chair, Representative Lemoine. What a cast of characters he had to lead.

In my attempt to be brief, I am going to use someone else's words. They can do it a lot faster than I can. "Dear Representative Suslovic, We wish to express our deep concern for the financial position of the Town of Eliot if the Maine Taxpayers Action Network proposal is approved by voters and becomes law. As you must be well aware, the impact of this proposal on municipalities statewide will be devastating. We have calculated the effect on Eliot specifically and it is quite alarming." It goes on to list in very specific dollars and cents what the impact will be. "The remaining deficit will be a negative balance of \$43,805. This deficit is a result of the school and county commitment only. No funds are available to run the town. It is very clear that the consequences of passage of this proposal pose a dramatic threat to the Town of Eliot and we believe we are only one of many municipalities in the state that would find itself in such dire financial distress. We urge you to do all you can to see that a reasonable alternative is brought forth and that this proposal does not become law. Sincerely, Stephen R. Beckert, Chairman, Roland R. Fernald, Anne Shapleigh-Shisler, John Grove, Sharon Tibbett."

Well Mr. Beckert, Mr. Fernald, Ms. Shapleigh-Shisler, Mr. Grove, Ms. Tibbett, I intend to do all that I can when a reasonable alternative is brought forward. Thank you Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brunswick, Representative Gerzofsky.

Representative **GERZOFSKY**: Mr. Speaker, Ladies and Gentlemen of the House. It is five minutes to one and I get to speak. A tax increase is a tax increase. Call it anything else you want, but it is still increases the taxes. I am going to look to my right because I know what the people on my left are going to vote tonight. The people on my right are the people I want to speak to. They are the people that are here that are going to raise taxes in Maine.

A lot of you know that in the summertime I take rides on my motorcycle. I go out to a place called Sturgeous and stay at a big campground called Buffalo Chips. I watch where I walk. That is why they call it Buffalo Chips. Sometimes I see legislation come through here and it reminds me of the Buffalo Chips in Sturgeous. I have to watch where I walk. I have to read what is in front of me. When I go home to Brunswick every grammar school in the town is in my district. The Superintendent's Office is in my district. Every senior citizen congregate living housing is in my district. I can't imagine going home and telling my seniors that I just raised taxes in order to lower taxes. They are going to look at me and say, Stan, we are old, but we are not senile. We know what raising taxes is about. They seem to do it up in the Legislature often. Make no mistake, they are not going to say the Legislature raised taxes. They are going to say that the Democrats raised their taxes, because that is who is going to raise my taxes, not the Legislature. You can have a majority budget, but it pretty darn hard to have majority tax reform. I think it is pretty impossible.

This is an election year. You are dreaming if you think it is going to be anything besides the Democrats raised my taxes. The Democrats did it. I don't think the people on this side of the aisle are going to line up to push the green button. I want you to know that. I worked here a long time ago down at the other end. The Republican Party had a plan and it was called GPA. They passed it here about 1985 as I remember. I think there is a legislator or two that might be here and a staff or two that might still be here. It was supposed to control property taxes with funding to education. It didn't control mine.

I remember when we put in circuit breaker. That too was going to control property taxes. It didn't. It might have slowed it down, but it didn't stop the increases. Remember when they put in homestead. Same thing, they were all originated here. It didn't do it. This tax increase tonight is not going to lower my taxes or my mother's taxes or my senior's taxes or your taxes. You are not going to hear from your town manager and he is not going to send you a letter that says, by all means throw your tax bill away. We are sending you a new one and it is going to be \$200 less. You know as well as I do that is not going to happen. Your taxes are going to go up.

This plan isn't going to bother Carol Palesky's plan a single bit. She happens to be want to be giving away the store for free. We want to give away the store, but we want to charge you for it. I believe that taxpayers of Maine are a little bit brighter than that.

I rise tonight and I am breaking with my leadership. This is the first time I have ever done it. I am a fourth generation Democrat. I don't think anybody in the family has ever done this. My party means a lot to me and my seniors mean a whole lot to me and my kids in school mean a whole lot to me. I have heard other people stand here tonight and say that this tax increase is going to do wonderful things for the schools, wonderful things for my seniors. I don't see how raising their taxes when there is a tax revolt going on is going to protect my seniors next year when a lot of us get picked off and don't come back here. That is why I am standing here tonight, not because I don't like my speaker's bill. I watched it go from homestead from \$7,000 to doubling so that we could get it on the floor. I have seen the circuit breaker get fooled with. I have seen him jump through a lot of hoops to get this bill to the floor. Some people think that doing something is better than doing nothing. Let me tell you, there are times when doing nothing is much better than doing something if something is the wrong thing.

I remember when we put the snack tax in. Boy oh boy that was going to cure the ills of the world and what it did was it sent the majority party back here barely in the majority. It was kind of a silly thing to do and it took us a long time to get rid of it. We did it. We will probably all live through this. I don't think my seniors and the kids in my schools are going to be better off with this. You can say this is tax reform. You can say we are lowering taxes, but you all know you are not. Let's not kid ourselves or the public. The thing that they don't like the most at home is when they think that we are up here fooling them or trying to fool them. If you are going to raise taxes, Democrats, stand up and be proud and raise the damn things, but don't say the Legislature did it because they didn't. They didn't do it at the other end and they aren't doing on this side. You are doing it yourselves. Stand up and do it yourselves. You are going to pay a price and that is why I am up here tonight to make sure you understand just what you are doing. You are putting my seniors in jeopardy. You are putting my kids in jeopardy.

I am going to sit and vote against this package. I am going to vote against my Speaker for the first time. I am going to vote against my corner for the first time, because I believe they are wrong in doing something for the sheer sake of doing something. By all means, you can do nothing and go home and tell the people all the good things that we did do here. We did do Dirigo. We did do a lot of good things. We have a lot to brag about. Let's not go home and say that we fooled ya. We raised your taxes and said that it was tax reform. Please vote for your people at home, but vote honestly. Thank you Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Frenchville, Representative Paradis.

Representative **PARADIS**: Mr. Speaker, Ladies and Gentlemen of the House. At the risk of prolonging a debate that has now spanned over two days, I certainly don't want it to get into the third day. I do want to make a few points. I, too, will vote for this measure. Originally for a long time I never thought I would. I am basically an optimistic person, but I am also a realist. Last session I hoped that we would work with the MMA and arrive at one common resolution and put it out to the voters, but we did not. Last fall I had hoped that we would find some new revenues in a casino. I campaigned for it. I thought it was a good deal. People asked me to give them five reasons why this would be good for us and I would give them 10. We carried in the St. John Valley. It was a good business deal. No state money and it would have generated \$100 million a year, but that is gone.

A penny increase in the sales tax, that is where I was not too long ago, but that is a non-starter. It is dead. LD 1824 as the good Representative from Bath said a while ago is the only show left in town. It is not perfect. It is far from it, but it does give relief and that is what people want first. Tax reform, that should be priority in the next session. It should be posted all over the place. We have to give the people some relief. I am thinking of the words of Robert Kennedy that it is better to have tried and failed than to not have tried at all. In this case, I don't think we have failed if we pass this bill. Through the homestead and through the circuit breaker and increased GPA we do give targeted tax relief and there are some spending caps. It is far from perfect, but it is a lot better than nothing. I will vote green and I urge you to do the same.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Sanford, Representative Courtney.

Representative **COURTNEY**: Mr. Speaker, Ladies and Gentlemen of the House. I realize it is late, but you know what, I listened to all of you so I guess you can listen to me. This is the best you can do. You control the House, the Senate, the Chief Executive's Office and this is the best you can do. It is incredible. I have watched some things happen in this House that I had heard about, but I never dreamed of it. Representative Twomey made a great point when she started this whole thing a couple of hours ago and talked about the pressure. I never dreamed that in an institution like this that somebody would tap on the glass and point and somebody would switch their vote. How do you explain that at home? How do you go home and hold your head high?

Some of these things have been overlooked here. We talked about revenues increasing at 8 percent. If revenues increased at 8 percent, the answer for tax reform is to increase taxes. You know, I have a fella who owns a little store in my district. The last time this Legislature raised the cigarette taxes he went from selling 100 cartons of cigarettes to 20. I think that do gooders probably feel that we saved 80 cartons of cigarettes. They are not smoking them anymore. They are smoking them. They are going over to New Hampshire and they are buying them on the Internet. That is just a fact of life. You think it is only a border issue. No way, you look at it. The sales tax revenues have declined. You think that is because people are smoking less. Perhaps, but I also think it is because people are buying them out of state and they are buying through the mail and they are buying them on the Internet.

We have also heard that this has a GPA increase of \$25 million. Wonderful. That is just what they said. We will come up with the \$15 in this budget and the \$25 million in the other budget and we can buy off MMA and they will go away and they won't push their bill. I don't think so. I don't think people are going to buy it. They get \$260 million through MMA. They are more intelligent than a lot of us. We hear how it is going to expand the



homestead and the circuit breaker. Wonderful. They are great causes and we should do it. Can they trust us? Will we come up with some gimmick where we take it away from them? Will we take part of it away from them? Will we take a little this year and a little next year and maybe in a couple of years it won't even exist? Trust us.

This is the one that I just find absolutely amazing. We are going to put a tax cap on county and municipal spending, the Legislature. We are the ones that need a tax cap. We need to set the example here. We don't have the right to go and tell municipalities to go and do it until we can set the example here. You know, here are 550 vacant positions in state government yet we have been scrambling for money, looking everywhere. Who looks there? A few of us Republicans on the Taxation Committee have.

When all is said and done, they are going to ask, what did you do for tax reform? Your answer can be, we raised taxes. Thank you, ladies and gentlemen.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House. I am very compelled on how I am going to vote on this issue. It is not just the Democrat's fault. It is everybody's fault in this chamber. Democrats, Republicans and Independents and Greens, everybody's fault. We talked about a Constitutional Amendment on a spending cap. You don't need that ladies and gentlemen. All you have to do is bite the bullet and do it yourself without a Constitutional Amendment. The founding fathers wrote the Constitution in both the United States Government and also the State of Maine. I have never voted for a Constitutional Amendment since I have been here. Even if this was proposed for a Constitutional Amendment on a spending cap, I still would not vote for one.

Sin taxes, I wasn't going to bring this up, but my committee last year in front of the budget negotiations lost liquor enforcement. Myself, my committee, the good Representative from Kossuth Township, Representative Bunker, came up with a tax on beer and alcohol. We put it in front of leadership on both sides. They got lobbied hard to vote against it, to kill it. It killed liquor enforcement to save some jobs. It was all to bring in \$230,000 worth of revenue to the State of Maine on fines that they assess on people for OUIs for minor liquor violations here in the State of Maine or 18 positions. Now we have only six.

It depends on what the issue is when people start listening on both sides. This is going to be probably my last speech on the floor. I have been here for eight years and like the good Representative from Brunswick said, I am back in the '80s. I was here as a little rug rat running around the halls. I remember the faces on some of those people that were sitting in this body making these decisions. Talk about tax reform, four years ago there was supposed to be a "tax reform" committee to look at all different taxes here in the State of Maine. Keep taxes if we need them and if we don't, eliminate them. We have a 1952 tax code that is servicing a 2004 economy. That is like taking an Edsil and driving up and down the Golden Road doing 90 miles an hour. It won't work.

We have to come up with a modern tax code, ladies and gentlemen. Expand the sales tax, I don't know. I am not a tax expert. I never claimed to be. I never even asked for the Taxation Committee and I never will. Taxes are something totally foreign to me. Four years ago I remember standing up in front of this body when they had the cigarette tax when it went from 74 cents to a dollar. It went from 12th in the nation to fourth. I don't smoke. I never smoked. I have never touched a cigarette in my life. I will not stand up before you people tonight and vote for a

tax on cigarettes. You are just going to tax yourself right of the market. It is getting worse and worse each year with term limits. People don't sit down and talk. My philosophy is if you don't agree, get them in a room, lock the door and bang their heads. That works on both sides. That is how you get things done.

The message I am trying to say is that we are here representing the people. The people sent us here to make the decisions. Forty million dollars to try to buy off MMA. The damage is already done. It was in November and now it is in June. It is already on the ballot. Carol Palesky, that is another tax referendum that we have to try to defeat or pass, however you want to look at it. When you look at your taxes back home and you do your own income tax and property tax, however you want to look at it, you have to make sure that you can pay for the amount of money coming in to help pay for the taxes you are doing something. Eliminating going to the movies every Friday night as a family, going out to dinner on a Saturday, going for a beer run at 3:00 in the morning, stop smoking or whatever. You have to find ways to stop that spending to help pay for those taxes. This is what we should be doing here in the Legislature. People sent us here to try to prove an example. I am termed out. I probably won't run for this institution for another 20 years because I am still young enough. If I ever do come back in 20 years, I am still younger than the good Representative from Raymond, Representative Bruno.

We have to look the people who sent us here in the eye. One of the examples that I would like to hare with you this evening is that when I was on Inland Fish and Wildlife for the last six years, they had problems with the fishing laws. They set up a subcommittee to look at the fishing laws in the State of Maine. They sat down and tackled those fishing laws together and made the rulebook that was like this thick, maybe a little bit thinner. Yes, it is still thick to some people. As you know, you can't please 100 percent of everybody. We have to please the people that are there that represent the people out there, 1.2 million here in the State of Maine.

I am not sure how I am going to vote when the vote comes up on this. I am very, very torn on both sides. I have good friendships on both sides of the aisle, both leaderships. We cannot keep on taxing or having a Constitutional Amendment or anything else until we sit down, shut that door, lock it and bang heads.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is Adoption of House Amendment "B" (H-962). All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 513

YEA - Adams, Barstow, Beaudette, Bliss, Brannigan, Breault, Bull, Canavan, Clark, Cowger, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Gagne-Friel, Grose, Hatch, Hutton, Jackson, Kane, Koffman, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, McGlocklin, McKee, McLaughlin, Mills J, Mills S, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Perry J, Pineau, Pingree, Richardson J, Rines, Simpson, Smith N, Sullivan, Suslovic, Thomas, Thompson, Usher, Walcott, Watson, Wheeler, Woodbury, Mr. Speaker.

NAY - Andrews, Annis, Ash, Austin, Bennett, Berry, Berube, Bierman, Blanchette, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Bunker, Campbell, Carr, Churchill E, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Dugay, Finch, Fischer, Gerzofsky, Glynn, Goodwin, Heidrich, Honey, Hotham, Jennings, Jodrey, Joy, Kaelin, Ketterer, Ledwin, Lewin, Maietta, McCormick, McGowan, McNeil, Millett, Moody, Murphy, Muse, Nutting, O'Brien J, Peavey-

Haskell, Percy, Rector, Richardson E, Richardson M, Rogers, Rosen, Saviello, Sherman, Shields, Smith W, Snowe-Mello, Stone, Sukeforth, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Vaughan, Wotton, Young.

ABSENT - Churchill J, Craven, Duprey B, Fletcher, Greeley, Jacobsen, Landry, McKenney, Moore, Perry A, Piotti, Sampson, Sykes.

Yes, 62; No, 76; Absent, 13; Excused, 0.

62 having voted in the affirmative and 76 voted in the negative, with 13 being absent, and accordingly the motion to **ADOPT House Amendment "B" (H-962) FAILED.**

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The Speaker resumed the Chair.  
The House was called to order by the Speaker.

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Subsequently, the Bill and all accompanying papers were **INDEFINITELY POSTPONED** and sent for concurrence.

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

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**REPORTS OF COMMITTEE  
Committee of Conference**

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act To Increase Returnable Beverage Container Redemption Rates" (H.P. 931) (L.D. 1257)

has had the same under consideration, and asks leave to report:

That the House **RECEDE** from Passage to be Engrossed as amended by Committee Amendment "A" (H-855) as amended by House Amendment "A" (H-956) thereto; **RECEDE** from Adoption of Committee Amendment "A" (H-855) as amended by House Amendment "A" (H-956) thereto; **RECEDE** from Adoption of House Amendment "A" (H-956) to Committee Amendment "A" and **INDEFINITELY POSTPONE** same; **READ** and **ADOPT** Committee of Conference Amendment "A" (H-977) to Committee Amendment "A" (H-855); **ADOPT** Committee Amendment "A" (H-855) as amended by Committee of Conference Amendment "A" (H-977) thereto; and **PASS THE BILL TO BE ENGROSSED** as amended by Committee Amendment "A" (H-855) as amended by Committee of Conference Amendment "A" (H-977) thereto.

That the Senate **RECEDE** and **CONCUR** with the House.

Signed:

Representatives:

SULLIVAN of Biddeford

PELLON of Machias

TRAHAN of Waldoboro

Senators:

HALL of Lincoln

SHOREY of Washington

GAGNON of Kennebec

The Committee of Conference Report was **READ** and **ACCEPTED.**

The House voted to **RECEDE.**

**Committee of Conference Amendment "A" (H-977) to Committee Amendment "A" (H-855) was READ** by the Clerk and **ADOPTED.**

**Committee Amendment "A" (H-855) as Amended by Committee of Conference Amendment "A" (H-977) thereto was ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED** as Amended by Committee Amendment "A" (H-855) as Amended by Committee of Conference Amendment "A" (H-977) thereto in **NON-CONCURRENCE** and sent for concurrence.

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

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**ENACTORS  
Acts**

An Act To Implement the Recommendations of the Commission To Improve the Sentencing, Supervision, Management and Incarceration of Prisoners

(H.P. 1382) (L.D. 1856)

(C. "A" H-833; H. "A" H-976; S. "A" S-571)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

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**Bond Issue**

An Act To Authorize Bond Issues for Ratification by Voters at the November 2004 Election

(S.P. 723) (L.D. 1875)

(C. "A" S-560)

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

Representative RICHARDSON of Brunswick **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: 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.

In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken.

**ROLL CALL NO. 514**

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

NAY - Andrews, Annis, Austin, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Glynn, Goodwin, Heidrich, Honey, Hotham, Jodrey, Joy, Kaelin, Ledwin, Lewin, Maietta, McCormick, McNeil, Millett, Mills S, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson E, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Young.



ABSENT - Churchill J, Craven, Duprey B, Fletcher, Greeley, Jacobsen, Landry, Lemoine, Lerman, McKenney, Moore, Perry A, Piotti, Sampson, Sykes, Usher.

Yes, 75; No, 60; Absent, 16; Excused, 0.

75 having voted in the affirmative and 60 voted in the negative, with 16 being absent, and accordingly the Bond Issue **FAILED PASSAGE TO BE ENACTED** and was sent to the Senate. **ORDERED SENT FORTHWITH.**

---

**COMMUNICATIONS**

The Following Communication: (H.C. 425)

**STATE OF MAINE**

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE  
COMMITTEE ON APPROPRIATIONS AND FINANCIAL  
AFFAIRS**

April 29, 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 Appropriations and Financial Affairs has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 356 An Act To Build a Prison in Washington County  
We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Mary R. Cathcart

Senate Chair

S/Rep. Joseph C. Brannigan

House Chair

**READ and ORDERED PLACED ON FILE.**

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**COMMUNICATIONS**

The Following Communication: (S.C. 629)

**MAINE SENATE**

**121ST LEGISLATURE  
OFFICE OF THE SECRETARY  
3 STATE HOUSE STATION  
AUGUSTA, MAINE 04333**

April 30, 2004

Millicent M. MacFarland, Clerk

Maine House of Representatives

2 State House Station

Augusta, ME 04333

Dear Clerk MacFarland,

Please be advised that the Senate today Insisted to its previous action on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Change the Assessment of Lands Used for Long-term Ownership" (H.P. 695) (L.D. 938) whereby it failed Passage to be Engrossed as Amended by House Amendment "A" (H-955).

Sincerely,

S/Joy J. O'Brien

**READ and ORDERED PLACED ON FILE.**

---

**SENATE PAPERS**

**Non-Concurrent Matter**

Resolve, Authorizing the Commissioner of Administrative and Financial Services To Sell or Lease the Interests of the State in Certain Real Estate in Presque Isle, Known as the "Aroostook Residential Center" (EMERGENCY)

(H.P. 1307) (L.D. 1785)

**FINALLY PASSED** in the House on April 7, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-696) AND SENATE AMENDMENT "A" (S-457)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-696) AND SENATE AMENDMENT "B" (S-585) in NON-CONCURRENCE.**

The House voted to **RECEDE AND CONCUR.**

---

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

---

**Non-Concurrent Matter**

An Act To Improve the Viability of Railroads Operating in Maine

(S.P. 757) (L.D. 1918)

**PASSED TO BE ENACTED** in the House on March 25, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-779)**)

Came from the Senate with the Bill and accompanying papers **INDEFINITELY POSTPONED in NON-CONCURRENCE.**

The House voted to **RECEDE AND CONCUR. ORDERED SENT FORTHWITH.**

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**COMMUNICATIONS**

The Following Communication: (H.C. 426)

**STATE OF MAINE**

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE  
COMMITTEE ON APPROPRIATIONS AND FINANCIAL  
AFFAIRS**

April 29, 2004

The Honorable Beverly C. Daggett, President of the Senate

The Honorable Patrick Colwell, Speaker of the House

121st Maine Legislature

Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

We are pleased to report that all business which was placed before the Joint Standing Committee on Appropriations and Financial Affairs during the Second Regular and Second Special Sessions of the 121st Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers	49
Unanimous Reports	40
Ought to Pass	5
Ought to Pass as Amended	4
Ought Not to Pass	31
Divided Reports	9

Respectfully submitted,

S/Mary R. Cathcart

Senate Chair

S/Joseph C. Brannigan

House Chair

**READ and ORDERED PLACED ON FILE.**

---

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

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The House recessed until the Sound of the Bell.

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(After Recess)

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The House was called to order by the Speaker.

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**ENACTORS**  
**Resolves**

Resolve, Authorizing the Commissioner of Administrative and Financial Services To Sell or Lease the Interests of the State in Certain Real Estate in Presque Isle, Known as the "Aroostook Residential Center"

(H.P. 1307) (L.D. 1785)  
(C. "A" H-696; S. "B" S-585)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **FINALLY PASSED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

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**SENATE PAPERS**  
**Non-Concurrent Matter**

An Act To Support the Regional Library System

(H.P. 222) (L.D. 279)

**PASSED TO BE ENACTED** in the House on March 3, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-703)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-703) AS AMENDED BY SENATE AMENDMENT "A" (S-590)** thereto in **NON-CONCURRENCE.**

The House voted to **RECEDE AND CONCUR.**

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**Non-Concurrent Matter**

An Act To Support Maine's Franco-American Heritage and the Kennebec-Chaudiere International Corridor

(S.P. 373) (L.D. 1149)

**PASSED TO BE ENACTED** in the House on March 4, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-391)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-391) AS AMENDED BY SENATE AMENDMENT "A" (S-591)** thereto in **NON-CONCURRENCE.**

The House voted to **RECEDE AND CONCUR.**

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**Non-Concurrent Matter**

An Act to Revise the Reimbursement by the County Jail Prisoner Support and Community Corrections Fund and To Provide Additional Support to County Jails

(S.P. 390) (L.D. 1186)

**PASSED TO BE ENACTED** in the House on February 25, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-380) AS AMENDED BY HOUSE AMENDMENT "A" (H-697)** thereto)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "B" (S-592)** in **NON-CONCURRENCE.**

---

The House voted to **RECEDE AND CONCUR.**

---

**Non-Concurrent Matter**

An Act To Create the Maine Military Family Relief Fund  
(S.P. 657) (L.D. 1724)

**PASSED TO BE ENACTED** in the House on March 22, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-422)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-422) AS AMENDED BY SENATE AMENDMENT "A" (S-593)** thereto in **NON-CONCURRENCE.**

The House voted to **RECEDE AND CONCUR.**

---

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

---

**Non-Concurrent Matter**

Resolve, To Renew the Veterans' Emergency Assistance Program

(S.P. 350) (L.D. 1021)

**FINALLY PASSED** in the House on April 16, 2004. (Having previously been **PASSED TO BE ENGROSSED**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-600)** in **NON-CONCURRENCE.**

The House voted to **RECEDE AND CONCUR.**

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**Non-Concurrent Matter**

An Act To Support the New Century Community Program

(H.P. 1309) (L.D. 1787)

**PASSED TO BE ENACTED** in the House on April 16, 2004. (Having previously been **PASSED TO BE ENGROSSED**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-594)** in **NON-CONCURRENCE.**

The House voted to **RECEDE AND CONCUR.**

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**Non-Concurrent Matter**

An Act To Make Minor Substantive Changes to the Tax Laws  
(H.P. 1335) (L.D. 1813)

**PASSED TO BE ENACTED** in the House on April 7, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-824)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-824) AS AMENDED BY SENATE AMENDMENT "A" (S-595)** thereto in **NON-CONCURRENCE.**

The House voted to **RECEDE AND CONCUR.**

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**Non-Concurrent Matter**

An Act To Appropriate Funds for World War II and Korean War Memorial Plaques in the Hall of Flags  
(H.P. 1367) (L.D. 1841)

**PASSED TO BE ENACTED** in the House on April 16, 2004. (Having previously been **PASSED TO BE ENGROSSED**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-597)** in **NON-CONCURRENCE.**

---

The House voted to **RECEDE AND CONCUR.**

---

**Non-Concurrent Matter**

An Act To Coordinate Education, Job Training and Employers in Maine

(H.P. 1399) (L.D. 1883)

**PASSED TO BE ENACTED** in the House on April 7, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-825)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-825) AS AMENDED BY SENATE AMENDMENT "A" (S-598)** thereto in **NON-CONCURRENCE.**

The House voted to **RECEDE AND CONCUR.**

---

**Non-Concurrent Matter**

An Act To Implement the Recommendations of the Legislative Youth Advisory Council

(H.P. 1419) (L.D. 1917)

**PASSED TO BE ENACTED** in the House on April 12, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-856)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-856) AND SENATE AMENDMENT "A" (S-599)** in **NON-CONCURRENCE.**

The House voted to **RECEDE AND CONCUR.**

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

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**Non-Concurrent Matter**

An Act To Appropriate Funds to the Maine Potato Board for the Purchase of Potatoes in Need of Disposal Due to Weather Conditions during the Harvest in 2003 (EMERGENCY)

(S.P. 771) (L.D. 1937)

**PASSED TO BE ENACTED** in the House on April 16, 2004. (Having previously been **PASSED TO BE ENGROSSED**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-569)** in **NON-CONCURRENCE.**

Representative COLWELL of Gardiner moved that the House **RECEDE AND CONCUR.**

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

Representative BRUNO: Mr. Speaker, Ladies and Gentlemen of the House. I am just trying to track down some notes here that happened on the Appropriations Committee and my lead on the Appropriations Committee isn't here right now. I am concerned about taking money out of the Bureau of Insurance to fund potatoes in Aroostook County. I don't see any correlation at all. I am very concerned that you are just looking for money somewhere and you turn to a pot of money at the Bureau of Insurance to deal with an issue that has nothing to do with insurance. Is that what we are getting to now? Earlier you heard me mention that there was \$3.1 million on the table. My understanding is \$460,000 of it got spent. That leaves in my math, \$2.5 million. Why can't you take it off the table if it is so important? Can anyone answer that question, Mr. Speaker?

The SPEAKER: The Representative from Raymond, Representative Bruno has posed a question through the Chair to

anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Brannigan.

Representative BRANNIGAN: Mr. Speaker, Men and Women of the House. This is a serious problem in Aroostook County. It needed to be cared for as soon as possible. The money from the Bureau of Insurance where there is about \$12 million surplus or at least something to that affect, this is borrowing that money for a brief period of time. It will be repaid. It is needed for this time and for this work. The money will eventually come from the general fund.

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Representative DUNLAP of Old Town assumed the Chair. The House was called to order by the Speaker Pro Tem.

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The SPEAKER PRO TEM: The Chair recognizes the Representative from Saco, Representative O'Neil.

Representative O'NEIL: Mr. Speaker, Ladies and Gentlemen of the House. Good morning, the Bureau of Insurance is one of those outfits that is funded with dedicated funds. The so-called surplus that is being taken from here is funded through the dedicated funds, the fees that the insurance companies pay dedicated strictly for their own regulation and the regulation of their entities. While one might say there is a surplus there, it is not a bloated budget. The Bureau of Insurance is one big hearing away or one big investigation away from needing every penny in that surplus. It is just a little bit more than their annual budget. The staffing for the regulation of the Bureau of Insurance requires them to have this modest cushion in there. I liken it to the fire department. My fire department in Saco has probably \$3 million worth of fire equipment. It probably costs them \$5,000 to put out my garage when I light it on fire. I am sure happy to have that \$3 million worth of equipment hanging around in the intervening times when I am not burning my garage. Please leave this money alone, Mr. Speaker. It is very bad policy. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from South Portland, Representative Glynn.

Representative GLYNN: Mr. Speaker, Ladies and Gentlemen of the House. I rise to support our good committee chair on Insurance and Financial Services in opposing this raiding of this fund. This is a dedicated fund that the Bureau of Insurance has to cover the expenses of so many important items. I would like to draw your attention to the fact that this amendment not only raids the fund within the Insurance and Financial Services, but what it does is it puts in an IOU that is not to be repaid until July 1, 2005. This is very significant language. The reason why the language is significant is this puts it beyond the current Legislature. We are putting an IOU in saying that the general fund in the next Legislature is going to go find the money to repay this. I have been in Augusta long enough to know that one Legislature cannot bind another Legislature. This gesture that it is going to be repaid in the face of the deficits that are coming by a future Legislature as a promise is not a promise I believe is going to be kept. This is going to be strictly raided funds, which will unfortunately cause assessments on the agents. It doesn't seem right and it doesn't seem fair. For those reasons, I hope you join me in opposing it and join in the bipartisan fashion between myself and the committee chair.

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

Representative BRUNO: Mr. Speaker, Men and Women of the House. In consultation with my committee lead on Appropriations, there is \$2.6 million left on the table. This is not a

unanimous vote by the Appropriations Committee. We would support taking the money off the table in an emergency fashion and fund it, but we will not be supporting an emergency piece of legislation taking it out of the Bureau of Insurance. Hopefully we can get that message in an amendment going where we fix the funding source on this. Thank you Mr. Speaker.

On motion of Representative RICHARDSON of Brunswick, **TABLED** pending the motion of Representative COLWELL of Gardiner to **RECEDE AND CONCUR** and later today assigned.

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

An Act To Appropriate Funds to the Maine Potato Board for the Purchase of Potatoes in Need of Disposal Due to Weather Conditions during the Harvest in 2003 (EMERGENCY)

(S.P. 771) (L.D. 1937)

Which was **TABLED** by Representative RICHARDSON of Brunswick pending the motion of Representative COLWELL of Gardiner to **RECEDE AND CONCUR**.

Under suspension of the rules, the Chair **WITHDREW** the motion to **RECEDE AND CONCUR**.

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

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

**ENACTORS  
Emergency Measure**

An Act To Amend the Laws Concerning Returnable Beverage Containers

(H.P. 931) (L.D. 1257)  
(CC. "A" H-977 to C. "A" H-855)

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. 114 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

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

**Acts**

An Act To Provide Funding for Court Security

(S.P. 390) (L.D. 1186)  
(S. "B" S-592)

An Act To Create the Maine Military Family Relief Fund

(S.P. 657) (L.D. 1724)  
(S. "A" S-593 to C. "A" S-422)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate. **ORDERED SENT FORTHWITH**.

**Acts**

An Act To Support the New Century Community Program

(H.P. 1309) (L.D. 1787)  
(S. "A" S-594)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate. **ORDERED SENT FORTHWITH**.

**Resolves**

Resolve, To Renew the Veterans' Emergency Assistance Program

(S.P. 350) (L.D. 1021)  
(S. "A" S-600)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **FINALLY PASSED**, signed by the Speaker Pro Tem and sent to the Senate. **ORDERED SENT FORTHWITH**.

**Acts**

An Act To Support the Regional Library System

(H.P. 222) (L.D. 279)  
(S. "A" S-590 to C. "A" H-703)

An Act To Support the Kennebec-Chaudiere International Corridor

(S.P. 373) (L.D. 1149)  
(S. "A" S-591 to C. "A" S-391)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate. **ORDERED SENT FORTHWITH**.

**Acts**

An Act To Make Minor Substantive Changes to the Tax Laws

(H.P. 1335) (L.D. 1813)  
(S. "A" S-595 to C. "A" H-824)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate. **ORDERED SENT FORTHWITH**.

**Acts**

An Act To Appropriate Funds for World War II and Korean War Memorial Plaques in the Hall of Flags

(H.P. 1367) (L.D. 1841)  
(S. "A" S-597)

An Act To Coordinate Education, Job Training and Employers in Maine

(H.P. 1399) (L.D. 1883)  
(S. "A" S-598 to C. "A" H-825)

An Act To Implement the Recommendations of the Legislative Youth Advisory Council

(H.P. 1419) (L.D. 1917)  
(C. "A" H-856; S. "A" S-599)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate. **ORDERED SENT FORTHWITH**.

The Speaker resumed the Chair.  
The House was called to order by the Speaker.

**SENATE PAPERS**

**Non-Concurrent Matter**

Resolve, to Fund Scholarships to the Seeds of Peace Camp  
(H.P. 55) (L.D. 47)

**FINALLY PASSED** in the House on March 3, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-704)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-704) AS AMENDED BY SENATE AMENDMENT "A" (S-589)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR. ORDERED SENT FORTHWITH.**

**Non-Concurrent Matter**

An Act To Provide Funding for the Maine-Canada Trade Ombudsman  
(H.P. 464) (L.D. 634)

**PASSED TO BE ENACTED** in the House on March 9, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-722)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-722) AS AMENDED BY SENATE AMENDMENT "A" (S-603)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR. ORDERED SENT FORTHWITH.**

**Non-Concurrent Matter**

An Act To Further Implement the Recommendations of the Commission To Improve the Sentencing, Supervision, Management and Incarceration of Prisoners and the Recommendations of the Commission To Improve Community Safety and Sex Offender Accountability  
(H.P. 1409) (L.D. 1903)

**PASSED TO BE ENACTED** in the House on April 16, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-860) AS AMENDED BY HOUSE AMENDMENT "B" (H-884)** thereto)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-860) AS AMENDED BY HOUSE AMENDMENT "B" (H-884) AND SENATE AMENDMENT "A" (S-601)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR. ORDERED SENT FORTHWITH.**

**Non-Concurrent Matter**

An Act to Support Domestic Businesses in Publicly Funded Construction Projects  
(S.P. 217) (L.D. 608)

**PASSED TO BE ENACTED** in the House on April 16, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-386)**)

Came from the Senate with the Bill and accompanying papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR.**

**Non-Concurrent Matter**

An Act To Ensure the State's Commitment to Former Students Who Were Physically or Sexually Abused at the Governor Baxter School for the Deaf or the Maine School for the Deaf  
(S.P. 614) (L.D. 1682)

**PASSED TO BE ENACTED** in the House on April 15, 2004. (Having previously been **PASSED TO BE ENGROSSED**)

Came from the Senate with the Bill and accompanying papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR.**

**Non-Concurrent Matter**

An Act To Clarify Financial Management Procedures at the Maine Developmental Disabilities Council (EMERGENCY)  
(S.P. 641) (L.D. 1709)

**PASSED TO BE ENACTED** in the House on March 9, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-401)**)

Came from the Senate with the Bill and accompanying papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR.**

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

**Non-Concurrent Matter**

An Act To Conform the Maine Tax Laws for 2003 to the United States Internal Revenue Code (EMERGENCY)  
(H.P. 1229) (L.D. 1651)

**PASSED TO BE ENACTED** in the House on April 27, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-757)**)

Came from the Senate with the Bill and accompanying papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR.**

**ENACTORS**

**Acts**

An Act To Further Implement the Recommendations of the Commission To Improve the Sentencing, Supervision, Management and Incarceration of Prisoners and the Recommendations of the Commission To Improve Community Safety and Sex Offender Accountability  
(H.P. 1409) (L.D. 1903)

(H. "B" H-884 and S. "A" S-601 to C. "A" H-860)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

An Act To Provide Funding for the Maine-Canada Trade Ombudsman  
(H.P. 464) (L.D. 634)

(S. "A" S-603 to C. "A" H-722)

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

On motion of Representative RICHARDSON of Brunswick, was **SET ASIDE**.

On further motion of the same Representative, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned.

**Resolves**

Resolve, to Fund Scholarships to the Seeds of Peace Camp  
(H.P. 55) (L.D. 47)  
(S. "A" S-589 to C. "A" H-704)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **FINALLY PASSED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

An Act To Provide Funding for the Maine-Canada Trade Ombudsman

(H.P. 464) (L.D. 634)  
(S. "A" S-603 to C. "A" H-722)

Which was **TABLED** by Representative RICHARDSON of Brunswick pending **PASSAGE TO BE ENACTED.**

On motion of Representative BRANNIGAN of Portland, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED.**

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-722)** was **ADOPTED.**

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Senate Amendment "A" (S-603)** to **Committee Amendment "A" (H-722)** was **ADOPTED.**

On further motion of the same Representative, **Senate Amendment "A" (S-603)** to **Committee Amendment "A" (H-722)** was **INDEFINITELY POSTPONED.**

The same Representative **PRESENTED House Amendment "A" (H-980)** to **Committee Amendment "A" (H-722)** which was **READ** by the Clerk and **ADOPTED.**

**Committee Amendment "A" (H-722)** as Amended by **House Amendment "A" (H-980)** thereto was **ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (H-722)** as Amended by **House Amendment "A" (H-980)** thereto in **NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH.**

The Speaker 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 receive any communication that he may be pleased to make:

Representative LEMOINE of Old Orchard Beach  
Representative NORBERT of Portland  
Representative SULLIVAN of Biddeford  
Representative McLAUGHLIN of Cape Elizabeth  
Representative LESSARD of Topsham  
Representative LANDRY of Sanford  
Representative ANDREWS of York  
Representative PEAVEY-HASKELL of Greenbush  
Representative CHURCHILL of Orland  
Representative McNEIL of Rockland  
Representative LEDWIN of Holden  
Representative CLARK of Millinocket

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

Governor **BALDACCI**: I brought the rest of the family with me. I am not sure if Murphy had anything she wanted to add, but she is here and Sam is here and my son, Jack, is here and you all are here. I know it has been a long and difficult process. Frankly, in this small period of reflection before you head home, I just want to see if we can just recap very quickly for you some of the things that have been going on. I want you to understand that these haven't been easy times with the economy. We came in a little over a year ago in January with a \$1.2 billion structural gap. We came in with Great Northern Paper Company declaring bankruptcy and a cold winter wind rattling through the windows at the State House. We had and still have a very high tax burden. Recognizing that we have obligations to meet, but at the same time recognizing that we have got to start to invest in the future.

You folks have been able to probably accomplish more than they have in the last 40 years of state government in this year and three months. I know we still have some issues that we are still working on and some may be a little bit discouraged about it, but all of us recognize that these issues are going to continue to be in front of us. We have to continue to discuss them, have conversations about them and be able to work together on that. It is different in Maine. People do work together. After eight years in Washington I know they take it to an art form about how not to work together. I believe from what I have been hearing and seeing and witnessing that there is more of an interest about the members getting together and talking together to try to work on things right up to the last minute. That is a good quality. I think we are going to be able to continue to work on these issues.

Let me just say first of all the important things that you have already been able to address in balancing the budget, our most important responsibility, protecting our bond rating, making sure that we are making the investments to attract business and industry with our Pine Tree Zones, fully funding the BETR Program, preserving and protecting Maine's environment. You have been able to work on health care and set into motion the first in the nation universal health care program that recognizes the private marketplace and also recognizes that competition is good and began that process over a five-year phase in. You have been able to merge the two biggest departments of state government, DHS and BDS, eliminating 31 top-level positions and saving \$5.8 million. More importantly than all of that, you are going to give the department better service to families, better value to people. Those things are going to be accomplished because of the work of what you have been able to do.

You have been able to reform workers' compensation. It is something that has been at loggerheads for the last eight years. It was a unanimous Labor Committee vote, unanimous support among AFL-CIO and the Maine State Chamber of Commerce. They tell me the voting that has been taking place on the board has been unanimous in the issues that have been confronting them. You folks have been able to do that. How important that is to both the business community and also to the injured workers who need to be able to get the hearings and relief and get back to work and increasing the productivity and also increasing the stake in the competition within that environment so that we can continue to attract business and industry and good paying jobs and benefits.

You have been able to pass an economic development bond to be able to invest in research and development and I believe it is beginning to make a difference. We just got back the third and fourth quarters of 2003 and Maine's per capita income has lead the region. You are making a difference in the actions you have taken and the investments that you are beginning to make.

Our state never had a community college system. You folks created and organized that. I am pleased to report that the percentage increases in enrollment have exceeded the expectations. You have established that you are not happy about 55 percent going on to post secondary and we have established 70 percent. We know when our people are learning and working to get those education and training degrees that they are going to be earning more and be able to support their families and strengthen their communities and their state.

We have also been able to recognize that our dairy farmers, believe me I remember when they were here and the concerns that were facing our dairy industries. You folks together worked to come up with a Dairy Stabilization Program so that we could protect those small dairy farms. You know, when I go through all of the issues and I covered mental health parity, liquidation harvesting, the strengthening of our ATV laws, renewable portfolio in our sentencing laws that you have been able to work on and there are numerous others. You folks have accomplished an awful lot in just a short period of time in a difficult economic time and a lot of challenges that have been placed before you. I want you folks to appreciate the fact that it hasn't been done for a long time. It would fair to say it has probably been close to 40 years in terms of a Legislature being as active, undertaking as many initiatives in setting the foundation. This is very important. What you folks are doing is creating the foundation for the 21st Century in all of these different areas. You are laying the groundwork for how all of these programs are going to work into the future in making sure that our young children, our families, our businesses are going to be able to compete, not just in Maine or New England, but around the world and be able to do quite well because of the investments and because of the initiatives that each and every one of you have been a part of.

I am very proud to have worked with you. We didn't win them all. We didn't hit them all out of the ballpark, but let me just tell you that you have done an awful lot of good and the citizens of

the state appreciate that. Thank you very much. I appreciate the opportunity to address you.

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The Speaker appointed Representative RICHARDSON of Brunswick on the part of the House to inform the Senate that the House had transacted all business before it and was ready to adjourn without day.

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At this point, a message came from the Senate borne by Sen. Gagnon of Kennebec of that Body, informing the House that the Senate had transacted all business before it and 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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**ENACTORS  
Acts**

An Act To Provide Funding for the Maine-Canada Trade Ombudsman

(H.P. 464) (L.D. 634)  
(H. "A" H-980 to C. "A" H-722)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker and 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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On motion of Representative CHURCHILL of Orland, the House adjourned without day at 7:50 a.m., Friday, April 30, 2004.