

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

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

**Volume II**

**First Regular Session**

June 6, 2007 – June 21, 2007

**Second Regular Session**

January 2, 2008 - March 31, 2008

Pages 682-1357

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE  
SECOND REGULAR SESSION  
32nd Legislative Day  
Wednesday, March 26, 2008

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

Prayer by Reverend M. S. Abraham, The First Assembly of God Church, Portland.

National Anthem by Jefferson Village Hand Bell Choir, Jefferson Village School.

Pledge of Allegiance.

Doctor of the day, David Howes, M.D., Brunswick.

The Journal of yesterday was read and approved.

---

**COMMUNICATIONS**

The Following Communication: (S.P. 895)

**STATE OF MAINE  
123RD MAINE LEGISLATURE**

March 19, 2008

Sen. Dennis S. Damon

Senate Chair, Joint Standing Committee on Transportation

Rep. Boyd P. Marley

House Chair, Joint Standing Committee on Transportation

123rd Legislature

Augusta, ME 04333

Dear Senator Damon and Representative Marley:

Please be advised that Governor John E. Baldacci has nominated Thomas B. Federle of Manchester for appointment to the Maine Turnpike Authority.

Pursuant to Title 23 M.R.S.A. §1965, this nomination will require review by the Joint Standing Committee on Transportation and confirmation by the Senate.

Sincerely,

S/Beth Edmonds

President of the Senate

S/Glenn Cummings

Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **TRANSPORTATION**.

**READ** and **REFERRED** to the Committee on **TRANSPORTATION** in concurrence.

---

The Following Communication: (S.P. 897)

**STATE OF MAINE  
123RD MAINE LEGISLATURE**

March 20, 2008

Sen. Lynn Bromley

Senate Chair, Joint Standing Committee on Business, Research and Economic Development

Rep. Nancy E. Smith

House Chair, Joint Standing Committee on Business, Research and Economic Development

123rd Legislature

Augusta, ME 04333

Dear Senator Bromley and Representative Smith:

Please be advised that Governor John E. Baldacci has nominated Cheri L. Walker of Falmouth for appointment to the Finance Authority of Maine.

Pursuant to Title 10 M.R.S.A. §965, this nomination will require review by the Joint Standing Committee on Business, Research and Economic Development and confirmation by the Senate.

Sincerely,

S/Beth Edmonds

President of the Senate

S/Glenn Cummings

Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**.

**READ** and **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** in concurrence.

---

The Following Communication: (S.P. 898)

**STATE OF MAINE  
123RD MAINE LEGISLATURE**

March 21, 2008

Sen. Peter B. Bowman

Senate Chair, Joint Standing Committee on Education and Cultural Affairs

Rep. Jacqueline R. Norton

House Chair, Joint Standing Committee on Education and Cultural Affairs

123rd Legislature

Augusta, ME 04333

Dear Senator Bowman and Representative Norton:

Please be advised that Governor John E. Baldacci has nominated Justin Chenette of Saco and Honor Wilkinson of Calais for appointment as Student Members of the State Board of Education.

Pursuant to Title 20-A M.R.S.A. §401 (1), these nominations will require review by the Joint Standing Committee on Education and Cultural Affairs and confirmation by the Senate.

Sincerely,

S/Beth Edmonds

President of the Senate

S/Glenn Cummings

Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**.

**READ** and **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** in concurrence.

---

The Following Communication: (S.P. 899)

**STATE OF MAINE  
123RD MAINE LEGISLATURE**

March 21, 2008

Sen. Peter B. Bowman

Senate Chair, Joint Standing Committee on Education and Cultural Affairs

Rep. Jacqueline R. Norton

House Chair, Joint Standing Committee on Education and Cultural Affairs

123rd Legislature

Augusta, ME 04333

Dear Senator Bowman and Representative Norton:

Please be advised that Governor John E. Baldacci has nominated the following to the School Board of the Governor Baxter School for the Deaf:

Joan Nason of Bath for reappointment

Lisa Penney of New Gloucester for appointment

Samantha Bragg of New Gloucester for appointment

Maggie Hoyt of Edgecomb for appointment

Frances Frost of Portland for appointment

Pursuant to Title 20-A M.R.S.A §7406, these nominations will require review by the Joint Standing Committee on Education and Cultural Affairs and confirmation by the Senate.

Sincerely,  
S/Beth Edmonds  
President of the Senate  
S/Glenn Cummings  
Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**.

**READ** and **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** in concurrence.

---

The Following Communication: (S.P. 900)

**STATE OF MAINE**  
**123RD MAINE LEGISLATURE**

March 21, 2008

Sen. Barry Hobbins  
Senate Chair, Joint Standing Committee on Judiciary  
Rep. Deborah Simpson  
House Chair, Joint Standing Committee on Judiciary  
123rd Legislature  
Augusta, ME 04333

Dear Senator Hobbins and Representative Simpson:  
Please be advised that Governor John E. Baldacci has nominated Diana Scully of Hallowell for appointment to the Indian Tribal State Commission.

Pursuant to Title 30 M.R.S.A. §6212, this nomination will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,  
S/Beth Edmonds  
President of the Senate  
S/Glenn Cummings  
Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **JUDICIARY**.

**READ** and **REFERRED** to the Committee on **JUDICIARY** in concurrence.

---

The Following Communication: (S.P. 901)

**STATE OF MAINE**  
**123RD MAINE LEGISLATURE**

March 21, 2008

Sen. Ethan Strimling  
Senate Chair, Joint Standing Committee on Labor  
Rep. John L. Tuttle  
House Chair, Joint Standing Committee on Labor  
123rd Legislature  
Augusta, ME 04333

Dear Senator Strimling and Representative Tuttle:  
Please be advised that Governor John E. Baldacci has nominated the following for reappointment to the Maine Labor Relations Board:

Carol B. Gilmore of Charleston  
Peter T. Dawson of Hallowell  
Wayne Whitney of Brunswick  
Karl Dornish Jr. of Winslow  
Robert L. Piccone of Portland  
Richard L. Hornbeck of Bowdoinham

Pursuant to Title 26 M.R.S.A. §968, these nominations will require review by the Joint Standing Committee on Labor and confirmation by the Senate.

Sincerely,  
S/Beth Edmonds  
President of the Senate  
S/Glenn Cummings  
Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **LABOR**.

**READ** and **REFERRED** to the Committee on **LABOR** in concurrence.

---

The Following Communication: (S.P. 903)

**STATE OF MAINE**  
**123RD MAINE LEGISLATURE**

March 24, 2008

Sen. Lisa T. Marraché  
Senate Chair, Joint Standing Committee on Legal and Veterans Affairs  
Rep. John L. Patrick  
House Chair, Joint Standing Committee on Legal and Veterans Affairs  
123rd Legislature  
Augusta, ME 04333

Dear Senator Marraché and Representative Patrick:  
Please be advised that Governor John E. Baldacci has withdrawn his nomination of Peter Danton for reappointment to the Gambling Control Board, pursuant to Title 3 M.R.S.A. §154.

This nomination is currently pending before the Joint Standing Committee on Legal and Veterans Affairs.

Sincerely,  
S/Beth Edmonds  
President of the Senate  
S/Glenn Cummings  
Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS**.

**READ** and **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** in concurrence.

---

The Following Communication: (S.C. 706)

**MAINE SENATE**  
**123RD MAINE LEGISLATURE**  
**OFFICE OF THE SECRETARY**

March 25, 2008

Honorable Glenn Cummings  
Speaker of the House  
2 State House Station  
Augusta, ME 04333-0002

Dear Speaker Cummings:  
In accordance with 3 M.R.S.A. §158 and Joint Rule 506 of the 123rd Maine Legislature, please be advised that the Senate today confirmed the following nominations:

Upon the recommendation of the Committee on Agriculture, Conservation and Forestry, the nomination of Ray B. Owen of Orono for appointment to the Land For Maine's Future Board.

Upon the recommendation of the Committee on Agriculture, Conservation and Forestry, the nomination of Jeffrey A. Thaler of Yarmouth for reappointment to the Land For Maine's Future Board.

Upon the recommendation of the Committee on Education and Cultural Affairs, the nomination of Robert D. Somerville of Spring,

Texas for appointment to the Maine Maritime Academy Board of Trustees.

Upon the recommendation of the Committee on Education and Cultural Affairs, the nomination of Marian H. Morgan of Cape Elizabeth for appointment to the Maine Maritime Academy Board of Trustees.

Upon the recommendation of the Committee on Education and Cultural Affairs, the nomination of Robert S. Walker of Marco Island, Florida for reappointment to the Maine Maritime Academy Board of Trustees.

Upon the recommendation of the Committee on Education and Cultural Affairs, the nomination of George S. Isaacson of Brunswick for appointment to the Maine Public Broadcasting System Board of Trustees.

Upon the recommendation of the Committee on Marine Resources, the nomination of Richard P. Ruhlman of Brewer for reappointment to the Atlantic Salmon Commission.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

**READ and ORDERED PLACED ON FILE.**

**ORDERS**

On motion of Representative KOFFMAN of Bar Harbor, the following Joint Resolution: (H.P. 1642) (Cosponsored by President EDMONDS of Cumberland and Representatives: ADAMS of Portland, MARLEY of Portland, MUSE of Fryeburg, RECTOR of Thomaston, SIMPSON of Auburn, TARDY of Newport, Senators: DAMON of Hancock, ROTUNDO of Androscoggin)

**JOINT RESOLUTION ENCOURAGING THE USE OF REUSABLE SHOPPING BAGS**

WHEREAS, in the future, establishing new landfill space will face increased technical and political siting challenges; and

WHEREAS, government oversight of solid waste management operations has become more costly to taxpayers; and

WHEREAS, public frustration has increased with nuisances regarding odor, truck traffic and litter and concern over groundwater contamination and emissions from garbage incineration; and

WHEREAS, the long-standing goal of the State of Maine to achieve a 50% recycling rate has yet to be met; and

WHEREAS, less than 5% of disposable plastic shopping bags are recycled, despite Maine's recycling laws, resulting in nearly 300 million bags dumped in landfills and incinerated or littered on Maine's highways and roads, in Maine's rivers, lakes and streams and along the seacoast; and

WHEREAS, disposable plastic shopping bags do not biodegrade and can remain in landfills for as long as 1,000 years; and

WHEREAS, the manufacture and transportation of disposable plastic shopping bags consume approximately 12 million barrels of oil each year in the United States; and

WHEREAS, countries, states and cities around the world recognize the problems posed by the billions of disposable shopping bags entering the waste stream or littering the land and waters in their jurisdictions; and

WHEREAS, governments around the world seek to reduce the unnecessary consumption of oil that is costly and ever more difficult to obtain; and

WHEREAS, the manufacture and incineration of disposable plastic shopping bags contribute to increased greenhouse gases; and

WHEREAS, the State of Maine's climate action plan seeks to reduce greenhouse gases to 1990 levels by 2010; and

WHEREAS, Maine retailers can enjoy significant savings on the cost of disposable shopping bags from customers supplying reusable shopping bags; and

WHEREAS, it is important to express appreciation for efforts by grocery stores to provide low-cost, long-lasting reusable shopping bags, which are now readily available at stores throughout Maine; and

WHEREAS, Maine's citizens are continuing to demonstrate support for common-sense, responsible conservation measures and environmental protection policies; now, therefore, be it

**RESOLVED:** That We, the Members of the One Hundred and Twenty-third Legislature now assembled in the Second Regular Session, on behalf of the people we represent, take this opportunity to express that we support voluntary, nonregulatory approaches to achieving goals in the public interest and that in recognition of Earth Day, April 22, 2008, we urge Maine citizen support for the statewide Earth Day goal that at least 50% of Maine's grocery store customers bring their own reusable shopping bags to grocery stores across Maine; and be it further

**RESOLVED:** That We urge Governor John E. Baldacci and appropriate administrative departments to facilitate public education about the benefits of reusable shopping bags; and be it further

**RESOLVED:** That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to Governor John E. Baldacci, the Commissioner of Environmental Protection, the Commissioner of Conservation, the Commissioner of Economic and Community Development and the Director of the State Planning Office.

**READ.**

Representative HAMPER of Oxford **REQUESTED** a roll call on **ADOPTION.**

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

Subsequently, Representative HAMPER of Oxford **WITHDREW** his **REQUEST** for a roll call on **ADOPTION.**

Subsequently, the Joint Resolution was **ADOPTED.** Sent for concurrence.

On motion of Representative PERRY of Calais, the following Joint Order: (H.P. 1640)

**ORDERED,** the Senate concurring, that the Joint Standing Committee on Health and Human Services shall submit, to the House, a bill making technical corrections to the law relating to flavored cigarettes and cigars.

**READ and PASSED.**

Sent for concurrence.

**SPECIAL SENTIMENT CALENDAR**

In accordance with House Rule 519 and Joint Rule 213, the following items:

**Recognizing:**

the Lewiston Youth Advisory Council, of Lewiston, on its many projects, including its development of a film entitled "Smashed," which was created to educate the community's youth about the dangers of drinking and driving, and funded through a grant from the Maine Bureau of Highway Safety with volunteer assistance. The film has been approved for use in driver's education classes throughout Maine. The Lewiston Youth Advisory Council advises the Lewiston City Council concerning community issues affecting youth and serves as a liaison

between the youth of the community and the City. We congratulate the dedicated members of the Lewiston Youth Advisory Council on the success of their hard work and vision and we commend them for their efforts;

(HLS 1040)

Presented by Representative MAKAS of Lewiston. Cosponsored by Senator ROTUNDO of Androscoggin, Representative SAMSON of Auburn, Representative CAREY of Lewiston, Representative WAGNER of Lewiston, Representative CRAVEN of Lewiston.

On **OBJECTION** of Representative MAKAS of Lewiston, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

The **SPEAKER**: The Chair recognizes the Representative from Lewiston, Representative Makas.

Representative **MAKAS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Congratulations to our Lewiston Youth Advisory Council on all of their fine work over the years, but today, I want to focus on one very special accomplishment that they have done: the film that they wrote, directed, and cast has been accepted for use in driver's education classes throughout the State of Maine.

This documentary was developed as part of the program created by this Youth Council, U Booze U Looze, about the dangers of underage drinking and driving. This film was actually in its creative, formative stages, when an incident occurred very close to home that emphasized the need for such a documentary. There was a horrible accident on Christmas Eve of 2006, resulting from a 20-year-old driver, who was drunk and driving on a suspended license. Six people died in that accident, including two young men from Lewiston, who were passengers in one of the cars. No one should have died that night, but I especially want to note that it was not just the person who had been drinking and driving, but also there were a lot of other people that were affected by that, not to mention their families.

This documentary, "Smashed," emphasizes the importance to all young people of not drinking and driving, but also being very, very careful as to who's car they get into when somebody has been drinking and driving. The fact that this documentary was created shows that even after such a tragedy, as the one that occurred at the end of 2006, there is a silver lining to even the blackest cloud, and it is my hope and I am firmly convinced that because of this documentary written by our young people, that there will be lives saved because of them, so I want to especially commend these young people on this work. They have saved lives, and we are extremely proud of them for this and for many other reasons. Thank you.

Subsequently, the Sentiment was **PASSED** and sent for concurrence.

---

**Recognizing:**

the Knights of Columbus on the occasion of its annual Maine convention and of the anniversary of the founding of the Knights of Columbus, March 29, 2008. On October 2, 1881, a small group of men called together by Father Michael J. McGivney met at St. Mary's Church in New Haven, Connecticut to form a fraternal society that would one day become the world's largest Roman Catholic family fraternal service organization. The Knights of Columbus was incorporated on March 29, 1882 under the laws of Connecticut and named in honor of Christopher Columbus, who introduced Christianity to the New World. The Knights of Columbus has more than 1.7 million members around the world and 10,000 members in Maine. The principles of the Order are Charity, Unity, Fraternity and Patriotism. In the past 11

years, the members of the Knights of Columbus have raised more than \$1.174 billion for charitable causes and provided in excess of 560 million hours of volunteer efforts in support of charity. Last year the Knights of Columbus donated \$139 million to charity and provided over 60 million hours of volunteer service in the United States. From 1979 to 2005, the Maine Knights of Columbus raised nearly \$2 million for the mentally handicapped through the Tootsie Roll Program. We extend our congratulations to the good members of the Knights of Columbus in this State and around the world for their generosity and exemplary contributions to society. We send State Deputy Robert King, Sr., and the Maine Knights of Columbus our best wishes on their upcoming convention on the weekend of April 19th and 20th, 2008;

(HLS 1135)

Presented by Representative CLARK of Millinocket.

Cosponsored by Representative THERIAULT of Madawaska, Senator MARTIN of Aroostook, Representative JACKSON of Allagash, Representative TUTTLE of Sanford, Representative RECTOR of Thomaston, Representative BLANCHARD of Old Town, Representative FLETCHER of Winslow, Representative HANLEY of Gardiner, Senator PERRY of Penobscot.

On **OBJECTION** of Representative CLARK of Millinocket, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

The **SPEAKER**: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative **CLARK**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I am extremely honored this morning to present this on behalf of the Knights of Columbus, and all of the work they have done throughout the State of Maine and throughout the United States.

To share a little story with you, I am a member of the Knights of Columbus: I am a Fourth Degree Knight, as well as part of the Honor Guard. What happened to us in the Katahdin area in 2003, the Knights of Columbus stepped up to the plate in those three towns and assisted us in helping raise around \$265,000 to assist the people of need, food banks and fuel. I can only relate to you a little bit of what they have done over the years, being a member since 1970, they have always been out there helping and working with people.

One of the pride issues that I take being a member of the Knights of Columbus is what they called a Tootsie Roll Drive. In the Katahdin area we have what is known as the Katahdin Friends for mentally retarded children, men and women, and we assist them by having a Tootsie Roll Drive, statewide, particularly in our Katahdin area, to assist those people in need.

As you know, this is the Knights of Columbus' anniversary, as well as their convention. Their convention is going to be held in April. I want to wish the Knights of Columbus the very best at their convention, especially State Deputy Robert King, Sr., and the Knights of Columbus, I want to wish them the very best, and all of the years they came and all the work they have done for people throughout the State of Maine. Thank you, Mr. Speaker.

Subsequently, the Sentiment was **PASSED** and sent for concurrence.

---

**Recognizing:**

Betty Austin, of Skowhegan, who is the recipient of the annual Skowhegan Area Chamber of Commerce Alton W. Whittemore Award for extended service to the community. Ms. Austin has served the town as a selectman and as a member of the planning board. She is a director of the Skowhegan Area Chamber of Commerce, chair of the board for the local public access cable

television station and a member of and lay speaker at the United Methodist Church. She is also a lay minister for the Salem Community Methodist Church in Salem. Ms. Austin is an insurance agent and is employed by the Skillings Insurance Agency. The Town of Skowhegan is proud to have Ms. Austin as a resident and a dedicated worker. We extend our congratulations to Ms. Austin on her receiving this award;

(HLS 1136)

Presented by Representative FINLEY of Skowhegan.

Cosponsored by Senator MILLS of Somerset.

On **OBJECTION** of Representative FINLEY of Skowhegan, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative Finley.

Representative **FINLEY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am very proud today to have with me Betty Austin. Betty is a recipient of the Alton W. Whittemore Award for extended community volunteerism, and Alton Whittemore was a community volunteer and was active in many organizations, and was a former member of this House, so it is a great honor to receive this award.

Betty has given many years of community service to our town. She is in her second term as a selectperson, and she plays the piano for the Rotary. She also donates her time as a lay minister for the small town of Salem in Franklin County. Betty is an asset to our town, and I am proud to have her as a friend. Thank you.

Subsequently, the Sentiment was **PASSED** and sent for concurrence.

---

**Recognizing:**

the following members of the Maranacook Community High School Boys Basketball Team, who won the 2008 State Class B Basketball Championship: Sam Poulin, Ryan Martin, Will Bardaglio, Mike Poulin, Patrick Norwood, Jeff Duplisea, Corey Stephens, Conrad Gilman, Ben Johnson, Max Hoddwells, Brian Bean, Devin Gerrity, Mike Allen and Mike Lachance and coach Rob Schmidt, assistant coaches Dick Hall and Paul Bean and managers Megan Heath and Tim Tourville. This is the team's 2nd championship in 3 years. We extend our congratulations to the Maranacook Black Bears on this tremendous achievement and wish them continued success;

(HLS 1137)

Presented by Representative FLOOD of Winthrop.

Cosponsored by Senator McCORMICK of Kennebec, Senator GOOLEY of Franklin, Representative KNIGHT of Livermore Falls, Representative JONES of Mount Vernon.

On **OBJECTION** of Representative ROBINSON of Raymond, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Flood.

Representative **FLOOD**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. It is really fun to have the Black Bears here today with their coach, Coach Schmidt, and assistant coach, Coach Bean. This is the second time that they have been visiting us in the last three years, and I certainly appreciate the excellent performance this season. I try to tell everybody they play just slightly better than the New England Patriots; they had a perfect season, 22-0, and a lot of people would say that was a lucky season. But I think if you watch these young people play over the years, you see a lot of hard work and practice and teamwork, and an awful lot of weight

training in the weight room, and the reality is that the more they work, the more they practice, the more they trusted in each other, the luckier they got.

I want to thank you—teams and coaches and the managers that are here today—for warming our December-February nights with your exciting games throughout central Maine, and you helped to shorten our winter. I also want to thank you as role models, role models in the coaching style you use, watching the players work so well together on the floor, and particularly for the sportsmanship. I want to thank you for your leadership, and I wanted to say to the athletes: Don't forget that really, your best days are really still ahead. Thank you so much for bringing such excitement to our community. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Livermore Falls, Representative Knight.

Representative **KNIGHT**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I, too, want to congratulate Coach Schmidt and his assistants and the Maranacook Black Bears, for winning the State Class B Championship.

Winning the gold ball for the second time, these young men "ran the table" as they say, 18-0, and then dispatched their poles in the postseason, culminating with a win over a very strong Cape Elizabeth team. For those who follow high school athletics, you know that Maranacook High School is known for its success in running cross-country and skiing. Now it is clear to me and others that this school has made its name on the hardwood as well, where teamwork and team play is the name of the game.

I am especially proud that four of this year's members are from the little town of Wayne, which is part of my district. Two of them are starters, Will Bardaglio and Ryan Martin, while two others, Max Hoddwells and Jeff Duplisea, are important contributors of the bench. All the members of his team very much deserve the accolades they have received and will receive, hard work pays great dividends. I offer my congratulations to them as well.

The SPEAKER: The Chair recognizes the Representative from Mount Vernon, Representative Jones.

Representative **JONES**: Thank you Mr. Speaker. Mr. Speaker, Colleagues of the House. I will be short. I, too, am very proud of our basketball team. In my district, I have representation on the team from the towns of Mount Vernon, Manchester, and Fayette. All of these students go to Maranacook.

I am particularly proud of our coaches, Rob Schmidt and Paul Bean. I remember—I am showing my age—when our coach, Rob Schmidt, was a player himself at high school, and it is so great to have him back working with our students. Paul Bean has been a wonderful community member in my district for years, working with our children.

I had an exciting night. I could not go up to Bangor the night of the game, but I was before the television—it was a snowy, cold, dangerous roads night—and I was so entertained and excited, I jumped out of my chair to cheer for them. I wish them luck for next year and hope to attend their victory again. Thank you.

Subsequently, the Sentiment was **PASSED** and sent for concurrence.

---

**Recognizing:**

Ryan Martin, of Wayne, who has been named Mr. Maine Basketball, an award that is presented annually to the top senior player in the State. Ryan is a senior at Maranacook Community School and was a guard on the boys basketball team. During his

4 years on the team, he scored one point shy of 1,900 in a career that has yielded him and his teammates 2 Class B State Championships. He scored a school-record 56 points in one game and was named the Kennebec Valley Athletic Conference Class B Player of the Year for the 3rd season in a row. We extend our congratulations to Ryan on his achievements;

(HLS 1148)

Presented by Representative KNIGHT of Livermore Falls. Cosponsored by Representative JONES of Mount Vernon, Representative FLOOD of Winthrop, Senator GOOLEY of Franklin.

On **OBJECTION** of Representative CROSTHWAITE of Ellsworth, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

The SPEAKER: The Chair recognizes the Representative from Livermore Falls, Representative Knight.

Representative **KNIGHT**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. We have just recognized the fantastic basketball team having won that gold ball against Cape Elizabeth; it is now my great honor and privilege to speak in honor of a sparkplug, the go-to guy, the leader of that team, Ryan Martin.

Ryan is diminutive in stature: he is my size; he is only 5'8". I think he might be the shortest player on the team, but he is huge—huge—on the basketball courts. As has been pointed out, he has been named the KJ Co-Player of the Year, first team member of the KJ All-Star Team, the Gatorade Player of the Year in Maine, and he has received Maine's top basketball award covering all classes, including Class A, Mr. Maine Basketball.

Ryan, despite facing double team coverage all year from his guard position, still managed to average over 23 points a game. He holds the school record of 1,899 points in his career. He holds the school record of 56 points in one game. The big question is how many points might he have scored had he not been sitting on the bench quite so often during that fourth quarter, because his teammates and he had already built such a huge lead over their opponents. A terrific scorer, he has also been named the Kennebec Valley Player of the Year three times, but also the KVAC defensive member of that team as well, and four years on that team.

I want to congratulate Ryan, and wish him well as he takes his skills to the University of Maine at Orono, where he will play Division I ball. I am absolutely convinced he will succeed at that level as well, and I want to offer my congratulations to Ryan Martin. Thank you, Mr. Speaker.

Subsequently, the Sentiment was **PASSED** and sent for concurrence.

---

**REPORTS OF COMMITTEE  
Pursuant to Joint Rule 309**

From the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Implement the Recommendations of the Committee To Review the Taxation of Slot Machine Revenues, Created by Executive Order 33 Fiscal Year 2006-07"

(S.P. 729) (L.D. 1924)

Received by the Secretary of the Senate on March 24, 2008, pursuant to Joint Rule 309.

Came from the Senate with the Bill and accompanying papers **INDEFINITELY POSTPONED.**

The Bill and accompanying papers were **INDEFINITELY POSTPONED** in concurrence.

---

**Ought to Pass Pursuant to Statute**

Representative SMITH for the **Joint Standing Committee on Business, Research and Economic Development** on Bill "An Act To Create Efficiencies in Professional Licensing Laws Pursuant to the State Government Evaluation Act Review of the Department of Professional and Financial Regulation"

(H.P. 1644) (L.D. 2278)

Reporting **Ought to Pass** pursuant to the Maine Revised Statutes, Title 3, section 955, subsection 4.

Report was **READ** and **ACCEPTED**. The Bill **READ ONCE** and was assigned for **SECOND READING** Thursday, March 27, 2008.

---

**Refer to the Committee on Taxation  
Pursuant to Joint Order**

Representative PIOTTI for the **Joint Standing Committee on Taxation** on Bill "An Act To Improve the Administration of State-Municipal Revenue Sharing"

(H.P. 1641) (L.D. 2276)

Reporting that it be **REFERRED** to the Committee on **TAXATION** pursuant to Joint Order, H.P. 1594.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **TAXATION**.

Sent for concurrence.

---

**Refer to the Committee on Business, Research and  
Economic Development  
Pursuant to Resolve**

Representative SMITH for the **Joint Standing Committee on Business, Research and Economic Development** on Bill "An Act Regarding the Sunrise Review of Oral Health Care Issues"

(H.P. 1643) (L.D. 2277)

Reporting that it be **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** pursuant to Resolve 2007, chapter 85, section 2.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**.

Sent for concurrence.

---

**Refer to the Committee on Education and Cultural Affairs  
Pursuant to Public Law**

Representative NORTON for the **Joint Standing Committee on Education and Cultural Affairs** on Bill "An Act To Clarify and Improve the Laws Governing the Formation of Regional School Units" (EMERGENCY)

(H.P. 1645) (L.D. 2280)

Reporting that it be **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** pursuant to Public Law 2007, chapter 240, Part XXXX, section 47.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**.

Sent for concurrence.



**Refer to the Committee on Education and Cultural Affairs Pursuant to Public Law**

Representative NORTON for the **Joint Standing Committee on Education and Cultural Affairs** on Bill "An Act To Amend the Laws Governing the Reorganization of School Administrative Units"

(H.P. 1646) (L.D. 2281)

Reporting that it be **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** pursuant to Public Law 2007, chapter 240, Part XXXX, section 47.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**.

Sent for concurrence.

---

**Divided Report**

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-794)** on Bill "An Act To Establish Open Ballot Voting in Maine"

(H.P. 1253) (L.D. 1799)

Signed:

Senator:

BRYANT of Oxford

Representatives:

WEDDELL of Frankfort

BRYANT of Windham

PATRICK of Rumford

TRINWARD of Waterville

TUTTLE of Sanford

CAREY of Lewiston

Minority Report of the same Committee reporting **Ought Not to Pass** on same Bill.

Signed:

Senators:

MARRACHÉ of Kennebec

PLOWMAN of Penobscot

Representatives:

MOORE of Standish

NASS of Acton

PINKHAM of Lexington Township

FITTS of Pittsfield

**READ.**

Representative PATRICK of Rumford 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.

---

**CONSENT CALENDAR**

**First Day**

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

(S.P. 774) (L.D. 1980) Bill "An Act To Preserve the Cobscook Bay Scallop Fishery" Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-472)**

(S.P. 843) (L.D. 2185) Bill "An Act To Provide for the 2008 and 2009 Allocations of the State Ceiling on Private Activity Bonds" (EMERGENCY) Committee on **BUSINESS, RESEARCH**

**AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-473)**

(H.P. 1394) (L.D. 2010) Bill "An Act To Ensure Ethical and Humane Dog Breeding in the State" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-803)**

(H.P. 1473) (L.D. 2087) Resolve, To Study the Feasibility of a Public Dock on Mooselookmeguntic Lake Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-804)**

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

---

**CONSENT CALENDAR**

**Second Day**

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

(S.P. 402) (L.D. 1214) Bill "An Act To Improve the Competitiveness of Maine's Boat Building Industry" (C. "A" S-469)

(S.P. 775) (L.D. 1981) Bill "An Act To Exempt Certain Facilities from Increased Fire Sprinkler Requirements" (C. "A" S-471)

(H.P. 1568) (L.D. 2198) Bill "An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Training for Elected Officials" (EMERGENCY)

(H.P. 610) (L.D. 810) Bill "An Act To Improve Solid Waste Management" (C. "A" H-799)

(H.P. 1393) (L.D. 2009) Resolve, Regarding Legislative Review of Portions of Chapter 150: Control of Emissions from Outdoor Wood Boilers, a Major Substantive Rule of the Department of Environmental Protection, Bureau of Air Quality Control (EMERGENCY) (C. "A" H-797)

(H.P. 1399) (L.D. 2015) Bill "An Act To Ensure Integrity in Financing Publicly Funded Campaigns" (C. "A" H-793)

(H.P. 1436) (L.D. 2052) Resolve, To Create the Blue Ribbon Commission To Study the Future of Home-based and Community-based Care (EMERGENCY) (C. "A" H-795)

(H.P. 1470) (L.D. 2084) Bill "An Act To Protect Vulnerable Children by Allowing the Use of Emergency Medication" (EMERGENCY) (C. "A" H-796)

(H.P. 1506) (L.D. 2126) Bill "An Act To Minimize Carbon Dioxide Emissions from New Coal-powered Industrial and Electrical Generating Facilities in the State" (C. "A" H-798)

(H.P. 1529) (L.D. 2149) Bill "An Act To Lower Energy Costs and Increase Renewable Energy in Maine" (C. "A" H-790)

(H.P. 1580) (L.D. 2213) Bill "An Act To Implement the Recommendations of the Working Group To Improve Public Understanding and Participation in the Rulemaking Process" (C. "A" H-791)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were **PASSED TO BE ENGROSSED as Amended** in concurrence and the House Papers were **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

(H.P. 532) (L.D. 701) Bill "An Act To Authorize the Operation of Slot Machines on Indian Island in Old Town" (C. "B" H-788)

On motion of Representative PATRICK of Rumford, was **REMOVED** from the Second Day Consent Calendar.

The Unanimous Committee Report was **READ**.

On further motion of the same Representative, **TABLED** pending **ACCEPTANCE** of the Committee Report and later today assigned.

**BILLS IN THE SECOND READING**  
**House**

Bill "An Act Regarding the State Government Evaluation Act Review of the Maine State Housing Authority"

(H.P. 1636) (L.D. 2271)

**House as Amended**

Bill "An Act To Protect Children in Vehicles from Secondhand Smoke"

(H.P. 1396) (L.D. 2012)

(C. "A" H-785)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the House Papers were **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

Resolve, Regarding Legislative Review of Portions of Chapter 101: Maine Unified Special Education Regulation, a Major Substantive Rule of the Department of Education (EMERGENCY)

(H.P. 1516) (L.D. 2136)

(C. "A" H-763)

Was reported by the Committee on **Bills in the Second Reading** and **READ** the second time.

On motion of Representative MARLEY of Portland, was **SET ASIDE**.

The same Representative moved that the House **RECONSIDER** its action whereby **Committee Amendment "A" (H-763)** was **ADOPTED**.

Representative TARDY of Newport **REQUESTED** a roll call on the motion to **RECONSIDER** whereby **Committee Amendment "A" (H-763)** was **ADOPTED**.

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

On motion of Representative PINGREE of North Haven, **TABLED** pending the motion of Representative MARLEY of Portland to **RECONSIDER** whereby **Committee Amendment "A" (H-763)** was **ADOPTED** and later today assigned. (Roll Call Ordered)

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

**UNFINISHED BUSINESS**

The following matters, 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.

**HOUSE REPORT - Ought to Pass as Amended by Committee Amendment "A" (H-780)** - Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act Regarding Education Laws"

(H.P. 1446) (L.D. 2062)

**TABLED** - March 25, 2008 (Till Later Today) by Representative RINES of Wiscasset.

**PENDING - ACCEPTANCE OF COMMITTEE REPORT.**

Subsequently, the Unanimous Committee Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-780)** was **READ** by the Clerk and **ADOPTED**.

Representative RINES of Wiscasset **PRESENTED House Amendment "A" (H-801)**, which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Wiscasset, Representative Rines.

Representative **RINES**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. This is a technical amendment offered by the Bill's in Second Reading. I have talked with the Chair of the Committee and we are all set with this. Thank you.

Subsequently, **House Amendment "A" (H-801)** 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**.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-780)** and **House Amendment "A" (H-801)** and sent for concurrence. **ORDERED SENT FORTHWITH**.

**SENATE REPORT - Ought to Pass as Amended by Committee Amendment "A" (S-468)** - Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Meet the Emergency Needs of Maine Veterans" (EMERGENCY)

(S.P. 779) (L.D. 1985)

- In Senate, Unanimous **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-468)**.

**TABLED** - March 25, 2008 (Till Later Today) by Representative PATRICK of Rumford.

**PENDING - ACCEPTANCE OF COMMITTEE REPORT.**

Subsequently, the Unanimous Committee Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-468)** was **READ** by the Clerk and **ADOPTED**.

The Bill was assigned for **SECOND READING** Thursday, March 27, 2008.

Bill "An Act To Increase the Time Period for Motor Vehicle Inspections to 2 Years"

(H.P. 1498) (L.D. 2112)

(C. "A" H-782)

**TABLED** - March 25, 2008 (Till Later Today) by Representative KAENRATH of South Portland.

**PENDING - PASSAGE TO BE ENGROSSED.**

The **SPEAKER**: The Chair recognizes the Representative from Portland, Representative Marley.

Representative **MARLEY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I do this with no pleasure. Yesterday, it was brought to our attention that there are grave concerns about loss of federal dollars—\$13 to \$ 17 million in federal highway funds—that could be at risk if we move forward with this.

Before I speak any further, I would like to thank the good Representative from South Portland, Representative Kaenrath, for bringing this forward, because obviously this is an issue that this Legislature would like to see moved forward. For that reason, the Committee talked about this bill yesterday in

committee, and we are going to write a letter to the Maine DEP and ask them to start talking to federal EPA saying this is something that has shown some interest in our Maine Legislature, how can we do it without risking these Clean Air dollars in federal highway dollars.

Basically, what my understanding is, is that the state, when our previous Legislature passed the wildly unpopular car test legislation to get at the clean air piece and auto emissions, they entered into negotiations and came up with what is called a SIP, a state implementation plan, with federal EPA around clean air, and part of that plan was to have annual inspections around emissions. Even going to a two year on new vehicles, that could endanger these highway dollars, between \$13 and \$17 million. Our committee felt it is too big of a rise given the budget crisis we are in, so we are not just letting this issue drop. As I said, we are going to have a letter go to the Maine Department of Environmental Protection and begin those negotiations, and see if there is a way we can mitigate that and alter that plan so that this could be considered in future Legislatures. I hope you will support the Indefinite Postponement. Thank you.

Subsequently, on motion of Representative MARLEY of Portland, the Bill and all accompanying papers were **INDEFINITELY POSTPONED** and sent for concurrence.

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

**REPORTS OF COMMITTEE**  
**Divided Report**

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act To Exempt from Gasoline Tax at the Time of Sale Fuel Used for Off-road Commercial Uses" (H.P. 1486) (L.D. 2100)

Signed:

Senators:

PERRY of Penobscot  
NASS of York  
STRIMLING of Cumberland

Representatives:

RAND of Portland  
KNIGHT of Livermore Falls  
CLARK of Millinocket  
WOODBURY of Yarmouth  
GOULD of South Berwick  
CHASE of Wells  
LANSLEY of Sabattus  
WATSON of Bath

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-800)** on same Bill.

Signed:

Representatives:

PIOTTI of Unity  
PILON of Saco

**READ.**

Representative PIOTTI of Unity moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Carter.

Representative **CARTER**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise not to speak against the pending motion, but to thank the Committee on Taxation. This was my bill; they give it a lot of due consideration and hard work. Unfortunately, it did address what is a very unfair situation regarding the taxing of off-road, more diesel than gasoline, but there is just too much of a morass of federal and state regulations—more federal than state—that made it impossible to do anything with this. Again, I would like to thank the Committee on Taxation for their very hard work on this bill.

Subsequently, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

**UNFINISHED BUSINESS**

The following matters, 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.

HOUSE DIVIDED REPORT - Majority (10) **Ought to Pass as Amended by Committee Amendment "A" (H-727)** - Minority (2) **Ought to Pass as Amended by Committee Amendment "B" (H-728)** - Committee on **MARINE RESOURCES** on Bill "An Act To Make Clam Flat Status Notification More Efficient, Cost-effective and Economically Beneficial to the Shellfish Industry" (H.P. 1508) (L.D. 2129)

TABLED - March 13, 2008 (Till Later Today) by Representative ADAMS of Portland.

PENDING - **ACCEPTANCE OF EITHER REPORT.**

Representative PERCY of Phippsburg moved that the House **ACCEPT** the Minority **Ought to Pass as Amended** Report.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative McDonough.

Representative **McDONOUGH**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I stand before you this afternoon to say to you that.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Gerzofsky, and inquires as to why he rises at this time.

Representative **GERZOFSKY**: Thank you, Mr. Speaker. I believe that we are on a different bill that some of us were expecting to work on right now. This I feel, I believe, is the Notification Act.

The SPEAKER: The Chair would answer that we are on LD 2129, the eighth matter of Unfinished Business.

Representative **GERZOFSKY**: Thank you very much, Mr. Speaker.

The SPEAKER: The Representative may proceed.

Representative **McDONOUGH**: Thank you, Mr. Speaker, and thank you, Representative Gerzofsky.

This Representative is in error, and I thought we were dealing with a bill that I suspect will be coming up soon. Thank you, Mr. Speaker.

Representative WEBSTER of Freeport moved that the Bill be **TABLED** until later in today's session pending the motion of Representative PERCY of Phippsburg to **ACCEPT** the Minority **Ought to Pass as Amended** Report.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Webster.

Representative **WEBSTER**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Since this is out of sequence from what had been anticipated, there are some amendments that I believe have hit the desks, and I believe seem very reasonable, however, have not been vetted. I wanted an opportunity to speak with the Chair of the Committee, and with

yourself, in order to put us in a posture to be able to work as cooperatively as possible. Thank you.

Subsequently, Representative WEBSTER of Freeport **WITHDREW** his motion to **TABLE** until later in today's session pending the motion of Representative PERCY of Phippsburg to **ACCEPT** the Minority **Ought to Pass as Amended** Report.

Subsequently, the Minority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "B" (H-728)** was **READ** by the Clerk.

Representative PERCY of Phippsburg **PRESENTED** House **Amendment "A" (H-789)** to **Committee Amendment "B" (H-728)**, which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Phippsburg, Representative Percy.

Representative **PERCY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Some clarification: As you have looked at this bill, this bill is about having the Department of Marine Resources have the ability to place any information concerning the opening or closing of a shellfish area on the Department's shellfish sanitation hotline and the Department's publicly accessible website.

The Amendment also gives the Commissioner of Marine Resources the option to publish changes to shellfish areas in the newspaper, in case of emergencies, and it also asks for a report back to the Marine Resources Committee in the 2009 work session, so that we can have some data about how communication occurs on the flats when a closing has to occur.

This bill was brought to us by Representative Webster; it gives us a savings of \$20,000; the industry supports it wholeheartedly; the Committee worked very hard on it; the Minority Report, we worked on the Amendment and Representative Webster is comfortable with that as the sponsor of the bill. Thank you very much, and I ask for your support.

The **SPEAKER**: The Chair recognizes the Representative from Freeport, Representative Webster.

Representative **WEBSTER**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I will be brief. The good Chair has characterized the last minute changes, and my feelings about them: I think that this is a good bill, it is going to move us forward, and I appreciate the improvements that the Committee has made on this. Thank you.

**House Amendment "A" (H-789)** to **Committee Amendment "B" (H-728)** was **ADOPTED**.

**Committee Amendment "B" (H-728)** as Amended by **House Amendment "A" (H-789)** thereto was **ADOPTED**.

The Bill was assigned for **SECOND READING** Thursday, March 27, 2008.

---

**HOUSE DIVIDED REPORT - Majority (9) Ought to Pass as Amended by Committee Amendment "A" (H-741) - Minority (4) Ought to Pass as Amended by Committee Amendment "B" (H-742) - Committee on MARINE RESOURCES on Bill "An Act To Facilitate the Timely Reopening of Closed Clam Flats"**

(H.P. 1422) (L.D. 2038)

**TABLED** - March 13, 2008 (Till Later Today) by Representative ADAMS of Portland.

**PENDING - ACCEPTANCE OF EITHER REPORT.**

Representative PERCY of Phippsburg moved that the House **ACCEPT** the Minority **Ought to Pass as Amended** Report.

The **SPEAKER**: The Chair recognizes the Representative from Phippsburg, Representative Percy.

Representative **PERCY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Thank you for

your patience in learning about water quality and shellfish; it is an enormously important issue to our state.

I would like to give you a little bit of history: In the legislative session last year, Representative Webster brought before the Marine Resources Committee a bill about auditing the Marine Resources Department of Water Quality. This bill went forth from the Committee in this form. We asked for a peer review to take place, it had come to the attention of many of us that there was a lot of conflict between the industry members and the Department of Marine Resources, so the peer review seemed the best way to deal with the situation: Look at the Department of Water Quality within Marine Resources and see how it is working.

The peer review was led by Paul Anderson of Maine Sea Grant. He picked three people from out of state—who all are professionals in the world of water quality and sampling and testing—and they were invited to come to the state, and they spent time here in this state visiting the labs, talking to industry, talking to the Department, going on site visits to places where sampling protocols take place.

This report was going to cost some money, so the shellfish industry stepped forward and said they were going to raise some of the money, so the Clam Council, the Organization of Clam Diggers, they raised money; people involved with selling shellfish raised money. They came up with about \$40,000—\$10,000 of that went to this peer review, and then the Department of Marine Resources put in \$10,000, so \$20,000 paid for this peer review.

The peer review came to Committee of Marine Resources this January and it had 19 recommendations. The recommendations had to do with everything, from how water quality samples were taken, where they are taken, in what kinds of conditions, and the report also talked about the fact that the Department of Marine Resources' Water Quality Program was doing a very good job, considering how poorly understaffed they are because of the financial situation in our state. Within that peer review—if you would like a copy, all of the Committee members have one—there are 10 places where the peer review specifically says the Department of Marine Resources is understaffed. So that is the peer review that came in front of our committee in January.

At the same time the bill came in front of our committee, LD 2038 came in front of our committee, a separate bill, also though about notification and water quality sampling. This bill came from Representative Gerzofsky and specifically dealt with one issue: it wants to allow municipalities to contract with a private lab, to take water sampling tests, and then send that information to the Department of Marine Resources. The industry asked Representative Gerzofsky to put this bill in, in order to help the Department facilitate a quicker opening of the clam flats.

In the discussions that occurred within the Marine Resources Committee, many, many questions were asked about protocol, about how things were handled in the Department, how were responses made to industry people. What came out of that committee is the bill that you see before you today, amended. The Minority Report specifically addresses the recommendations of the peer review. One of those recommendations and probably one of the most crucial recommendations is the creation of a shellfish advisory council.

Currently, for those of you not involved with Marine Resources, many industries have advisory councils. That is our way of guaranteeing that the industry has a voice and what happens in their industry while working with the Department of Marine Resources. There is Lobster Advisory Council; there is Sea Urchin Advisory Council. The peer review felt it was incredibly important to create a shellfish advisory council. The industry knows what is best for their industry and that was their

support. The Minority Report wants that to happen.

The Minority Report also would like this shellfish advisory council to work with DMR to facilitate all of the recommendations of the peer review. Currently, many of those recommendations have already been instituted. DMR is working with the FDA, they have rewritten some of those requirements, so progress is coming, and that is a good thing. The difference between the one thing that the Minority Report does not have, as you will see, is a fiscal note. Knowing the financial state that we are facing within our state budget, our feeling was that any decisions, any problems to be worked out in terms of labs, water quality protocol, needed to be worked out with the industry. The Minority Report says that the Department will work with the shellfish advisory council on recommendations on whether private labs should be a part of the process or not.

There are many pros and cons that you will hear throughout this afternoon, hopefully not for too long, on the pros and cons of private labs. I would like to give you one of my biggest concerns about private labs, is the amount of time that it takes because simply taking water quality tests, which a town will pay for and send to DMR, will add to the workload that already exists at an understaffed water quality department. Please understand that a municipality, for instance, in Harpswell, we can hire a private lab to do our water sampling, and then we send it off to DMR, and we will be adding to the workload that already exists there. I understand the conversation about private labs and I hope that that is a conversation that the shellfish advisory council will have with the Department, and how best to pay for something like that, how to work with the towns that do not have a lot of money in their coffers to put for shellfish, and to look at ways the Department can work with the industry to make sure that we can open our flats in a timely matter. Thank you, Ladies and Gentlemen, and I hope you will support the Minority Report.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative McDonough.

Representative **McDONOUGH**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I apologize once again for that snafu that we got into earlier, and I rise before you on this particular bill and respectfully disagree with my Committee Chair, Representative Leila Jane Percy, who I have the very highest regard for. I mean, this is a family fight that we are involved in, and I just disagree with the premise that has been presented from the Minority Report, and there are a couple of things that we need to talk about, as good families do, and some of our family members are up in the balcony.

We have listened to hours and hours of testimony from people up and down the coast of Maine: our friends, our neighbors, our family members. These are the folks that, I know, who were all here trying to represent as legislators in this body, and my feeling is that we need to do everything we can to help them. They brought in a tremendous amount of knowledge about this issue, lab testing. Our committee has gone out and visited with labs, so we know what the deal is on it, and there has been an awful lot of resistance coming from a department that I love and respect. But I can tell you, Mr. Speaker, that they are dead wrong on this issue; they are not taking care of the people that the Department has put in there to take care of—the public, you and I, the diggers that we live with, 99 percent of the time they are right. It is a big bureaucracy; they do not want to give up any oversight. I cannot talk about the Majority Report at this point, but I will later on. There is no giving up oversight.

We have communities—my community being one of them—that the town council, they have not established a shellfish commission, and I cannot begin to tell you how hard these men and women work to make things right, to provide good, clean

shellfish to put on people's tables, to deliver to restaurants, that we all enjoy in one fashion or another. They have said that they realize, in Scarborough, that we have probably the biggest marsh area in the State of Maine, and there are three rivers flowing into the Scarborough River that, at times, are really wonderful clamming beds. The Shellfish Commission works in receding people coming into the business. They have to go out and do some apprenticeship work—we call it community service work—to make this process work. They have said to us that we have big clamming areas because of red tape that is involved in this stuff—not red tide, I said red tape—that we want more tests, because today, they get six tests a year, and if a clam flat is closed it takes five years to get it opened again.

All they are saying is, Ladies and Gentlemen, my friends, that we want to shorten that up a little bit. We do not want bad clams going on the market that will harm people; they just do not want that. But they are saying that we need to open them up sooner than they are presently open, if at all possible. I, for one, agree with them; the majority on the Marine Resources Committee has agreed with them; and the work that two of our Representatives, from Freeport and Brunswick, have done on this whole issue has been outstanding; the work that the Committee members have done, on both sides of the issue, has been outstanding and I applaud them for that. We are going to have other issues that come before our committee, maybe not this year because I think our work is pretty much done, but in the 124th and ensuing Legislatures, there are always going to be issues relating to Marine Resources, IFW, any of those other departments that we deal with.

I know, Mr. Speaker, I am going on and on and the clock is going, but I think that this is an important issue, and I am here today to ask you all to do the right thing. When it comes time to vote on the Minority Ought to Pass proposal, I would ask you to vote against that and support the Marine Resources Committee's Majority Report that, by the way, has three Senators on the Majority Report, which I think that is important. They are no different than we are, but they have fewer numbers and I think it is significant when we wind up with three horses in the race that we did not have before. Anyway, Mr. Speaker, thank you for indulging me; I appreciate it very much. Thank you, Ladies and Gentlemen.

The SPEAKER: The Chair recognizes the Representative from Boothbay, Representative MacDonald.

Representative **MacDONALD**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I am rising, reluctantly, to urge you to vote against the pending motion offered by our good Chair. The reason I do that is, I sat in the Marine Resources Committee and heard dozens and dozens of clambers come and testify to us that there were two big problems in their industry that they needed to deal with: one was the timeliness of opening the clam flats; the second was the lack of communication between the industry and the clambers themselves.

The Minority Report only addresses the communication issue, it fails to address the timeliness issue, and I would urge you not to support the Minority Report only because it is just half a loaf. It deals with the communications problems, sets up a shellfish advisory council, but does not deal with the fact that we need to address the speed or slowness actually with which clam flats are being opened. That is not contained in the Minority Report, I urge you to vote against the Minority Report, and then consider the Majority when it comes up since it addresses both of those issues. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Sullivan, Representative Eaton.

Representative **EATON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have already been fired up over this once today and I am going to try to be brief and succinct.

This really comes down to a very significant set of questions for us to ask ourselves. I very much support the creation of the Shellfish Advisory Committee, very much. It is a very good step for our state to have our industry leaders, our people on the ground who do these things, making recommendations to us. But what came before us was a request, an emergency request, by the clam diggers of the State of Maine saying, "Please help us! Please help us!" These are businessmen and women, who we constantly are accused of being antibusiness. This is a chance for us to step up in defense of these businesspeople, and the Minority Report will in fact potentially get us there, but this is an emergency. This is not time to say "Well, maybe we will get together in a year or two down the road; we will get to where we want to go." This is a chance to put our people digging on our flats, or not digging because it takes us five years to get a flat open that may be perfectly clean and open for digging—five years. If you are a clam digger, you cannot just get in your car and drive 250 miles to go dig a couple bushels of clams. This is opening flats in their backyards.

Is there a cost to state government here that might even blow up this whole issue? Maybe. What is the cost to the coffers of this state, to the citizens of this state, when they want to go to work and they cannot? How many clams could be dug safely for all of our consumption that are not, and what is the cost—in maybe millions of dollars—to the State of Maine annually and our citizens because they cannot dig?

There has been a suggestion that this is unfair, and that the people Downeast are somehow being totally ripped off by this process. I represent Downeast Maine. This does not hurt my clam diggers; in fact, I believe it might help them, ultimately, because if the rich communities in the southern part of the state have the ability to pay for their own water quality testing, perhaps ultimately what we will do is free up some opportunity to be able for the state government to spend more time Downeast and maybe get my flats open in a more timely fashion, so I absolutely disagree that this is unfair to Downeast.

Do I think it is an issue of safety? Do I think that the Commissioner of the Department of Marine Resources or any of us in this body are going to create an unsafe situation for our constituents? No, I absolutely do not. I ask you, please, defeat the Minority Report, and look out for the small businessmen and women of this state that have begged us for our help. They also were willing to contribute a significant amount of their own money to help us come up to this conclusion. I ask you, please, defeat the Minority Report, move this ahead, and help the young men and women and the old men and women who dig on the clam flats of the State of Maine. Thank you very much.

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

Representative **GERZOFSKY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would hope that we could defeat this Minority Report; I hope we can defeat this Minority Report loud and clear, so that the clambers that are sitting up above us in the balcony know that their Legislature, their House, the House that they built, is looking out for their best interest. They know the difference between these two reports. They came to talk in front of the Committee by the hundreds about these bills that we are talking about today; they came on their own dime. They gave up their day out in the clam flat to come and talk to us. They were not paid lobbyists, they were

citizen lobbyists, and they spoke to the member of this committee who you just heard stand up.

The overwhelming majority of this committee has voted to reject the Minority Report, and I hope that the people of this body will do the same thing so that we can get on with the people's business, and take up legislation that will benefit these clambers, will benefit these small businessmen and women, will be able to let them put their kids through school and pay the taxes and do all they things that they need to do. So please, support my light, vote against this Minority Report and get on with the day's business. Thank you very much, Ladies and Gentlemen.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Fletcher.

Representative **FLETCHER**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. We talked about alewives, now we are talking about clams. I think we are all getting a good education.

The only thing I would like to add is that we know that we are stretched for resources, and here is a wonderful opportunity where communities are working collaboratively with the industry, the local community, and the state, to bring additional resources to get the work done that we need to get done. I think when the Committee worked the bill and we understood the importance of it, the urgency of it, as well as the added resources that can be brought to the table with certified, highly qualified private labs doing a piece of the work, which in turn will then free up our DMR resources to do the rest of the work.

I think it is relatively straightforward. I know there is a lot of discussion that has already been had and I will not drag this on any longer, but I just ask you to think of it: This is bringing more resources to the table to get the work done. I hope that you will agree to defeat the Minority Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bremen, Representative Pieh.

Representative **PIEH**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in opposition to the pending motion and hope that you will support the Majority Ought to Pass as Amended Report. The reason for this is that we have a struggling clam industry and just think about it, when you get your annual lobster bake, if you could not have the clams. We need to support this industry, and we have an industry that said, "Okay, we will help. We will pay for our own water tests. Could that help?" Well, let's find out, let's try it. But we have labs that are already doing clam testing on depuration—clams that are taken from flats that are closed—and I think that we could easily accept that offer.

There has been concern about creating different systems. I come from a town of about 800 people, with 36 clam diggers, and all the money that is paid for licenses goes into a shellfish advisory account, a Shellfish Committee account, and they have \$22,000 in there right now. Last year, they went together with the Harbor Committee, and bought a boat for our harbormaster and our shellfish warden to share. We will not say what they did to that boat one day, but they really are moving forward, reaching out and stepping up, and I think that we just need to do everything that we can to support that.

One person, in our rather ruckus caucus, said something about not being able to force the hand of Mother Nature in opening up flats. Well, we are just trying to force the hand of the Department of Marine Resources and actually get them the help that we think could be useful to them. Thank you very much.

Representative MCDONOUGH of Scarborough **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **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 Scarborough, Representative Pendleton.

Representative **PENDLETON**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I just want to point out a few quick things. One is that we have been talking about the clam diggers, but I need to remind everyone that it is not just clam diggers that are being affected here; it is the mussel harvesters, the oyster harvesters, and some of the other aquaculture harvesters that are also being affected. I hope that you will vote against the Minority Report so that we can go on to the Majority Report and get all of these groups of people to work.

I want to remind everyone that this is not brand new, having private labs; it is not a new thing. The Inland Fisheries uses private labs, as do many of our water testing and food testing, so I mean, really, this is not something new, it is just something that we really need to do for our fishermen. Thank you.

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

Representative **ADAMS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Welcome to the bill that will dissuade you of the notion that clams set the standard for happy. It was high tide and high times in our committee when this bill came to us. I washed up in believing the Minority Report to be the best approach. I believe it is the part of the document that bears light and virtue, and is the one that we should embrace, for reasons that will soon be in front of you on your desk, a document that compares the Minority and Majority Reports, which differ only in a matter of timing and the Fiscal Note, that appears on the Report that we cannot discuss because it is not in front of us. The Report that is in front of us bears no fiscal note.

Now why the hubbub over clams? Colleagues, no one who sat through the wonderful hearing that we had would deny the importance of a healthy seafood industry up and down the coast of the State of Maine. I speak as a person who has 60 closed acres in my own district that I wish could be opened, probably never will be because of the amount of pollution there. The question is, how do you take this issue and make something happen that is going to do any good for the people who dig, for the people who deal, for the people who eat, which is you and I?

The proposal is that we privatize certain kinds of testing so that things may move quicker. In point of fact, Colleagues, every state that had membership in the International Shellfish Sanitation Consortium, that attempted privatizing, had to move away from it because of the difficulty and the failures that they found in it. That includes: Texas, Florida, Georgia, that taken altogether can hardly test, in total, the number of shellfish we do as one state of a 3,500-mile coastline. What were the problems in sending it out to private labs? Quality control; FDA approvals; the fact that private labs work to maximize profit, not necessarily speed; and the fact that a two tiered system up and down the coast invariably, in those states and I think in ours, would result.

We all would love to see flats opened quicker, but friends, it is Mother Nature that closes those flats, not us. The year 2005 was the worst and heaviest rain year on record in the history of the United States because of Hurricanes Katrina and Rita; 2006 was the third heaviest rainfall in the history of the United States; 2007, in the State of Maine, we had the Patriot's Day storm. One such event can close flats for up to five years, because the only way to open them is to have a series of 30 tests done in a specified period of time, in specified depths of water, under specified conditions, which are then tested to see if the flat may be opened. Testing does not open the flat, Mother Nature opens the

flat. We simply find out her timing.

Now given that risk, and given the necessity for timing, is privatizing of the labs going to do a darn thing for us and bring anything about any faster? The only difference of the Majority Report, which we may not discuss, and the Minority Report, before you right now, is that we approach that question slower. The status of the Report that is in front of us now is that we would study it carefully and move toward it slowly, which eliminates a fiscal note of considerable magnitude that is born on the other bill.

Why, you are saying, this talk about clams? Why should I care if there are two tiers of people along the coast able to afford to have the test done? Here is how it would happen, and it might be of concern to you or those precious to you: If municipalities have to pay extra to go to a private lab, it means those municipalities that can afford to do it will. My end of the coast will probably find the money to do it; other parts of the coast may or may not. But that does mean that you have coming through the door haves or have-nots, who have to rely on the present system. What they found in Texas was that people who came through the door and were willing not only to be first in line because they had the upfront cash, but to be first, first in line, would pay a little extra, so they would always be first in line—extra, extra—upon the backs of those who ended up at the back of the line. That simply is not fair.

Likewise and lastly, I want you to understand that nature of the Fiscal Note that falls upon these things. Fiscal notes, however we much may like them or may not like them, are not prepared by you or I; they are prepared by the Office of Fiscal and Program Review. The Fiscal Note for the other Report, which we may not discuss because of the status of the motion before us in this second year, would be, if you were to write an imaginary figure on a sheet of paper and make it over \$200,000, very close to the fact. The other Report—that is the Minority Report—bears no fiscal note, and yet draws us toward the point where we may be able to properly discuss some of the items that both Reports want to do.

No one will deny that when the Department of Marine Resources in the State of Maine—one of our oldest, most ancient, and hardest working departments—does its job well, that all of us benefit. The problem is they simply need more people. If we could get one more person in the Lamoine lab, and one more person in the Boothbay lab, we would have the answers that we need without going to outside labs, which is a wholly different issue. If we had that imaginary figure of \$200,000 to spend on either one of these, I can tell which one I would put it into, which would immediately be hiring the people we need to do the job we want, for the neighbors we all love who dig clams or deal in them, and whose families we want to have all the things we would wish for our own. If proper funding came in to the picture, then this particular problem would not have been before us today.

I cannot tell you the wondrous things I learned about clams during this debate in the Committee, I cannot tell you the marvelous figures about clamming that were force-fed to all of us on the Committee during the debate on this bill, and I will not serve you up a good helping of them now for the same reason that we enjoyed them then. But I truly do believe that if you wish to make good motion towards opening flats quickly and serving our people well, the route lies in the Minority Report, whose position and whose actions are well written out for you in the left-handed column of the salmon colored sheet that you have now received, which bears, I would draw your attention to, under #6 at the bottom of the page, there is no fiscal note and minor costs may be absorbed by the Department of Marine Resources.



Having thus giving you a taste of the marvelous serving of clams given to us in committee, I hope I could recommend to you the Minority Report, to accomplish all that which both sides deeply and dearly wish to do, but accomplish it by doing it at no cost. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Webster.

Representative **WEBSTER**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I apologize to the Committee and to my colleagues for the length of this debate; we have many additional important issues. But this is about jobs, this is about families, and this is about fairness. I apologize to the Committee for the amount of time that it took, when over hundreds of people from the Maine Clammers Association and from oyster aquaculturists and others, came to the Committee and took a considerable amount of time talking about their jobs, their families, their livelihood. But facts take time, and I will try to be brief. I apologize that I have not had time to make this brief, so I will do the best I can.

There has been a question regarding the privatization of labs, and this Minority Report does not include a privatization of labs.

There has been a question regarding the quality control of labs. Interestingly enough, in this state we have ISO and FDA approved laboratories.

There has been some question regarding the efficacy of private labs; however, we trust them to make sure our milk is okay, to make sure our meat is okay, to make sure our fish is okay, to make sure that our apple juice is okay, to make sure our blueberries are okay, to make sure our syrup is okay. The relationship between state and private is that a quality control person, approved by the FDA, in the State of Maine, assures that the lab operates according to certain protocol.

There has been a question regarding the fiscal note of this bill. Well, this bill does not actually have a fiscal note; isn't that odd? The other bill, which we cannot discuss quite yet, does have a fiscal note. But if you were to happen to have looked at the fiscal note, you would see that some of the positions being paid for in that fiscal note were for things that that department has already implemented: training of people to take samples; people for the labs, yes; but also increase the number of people who have to go out and check one, maybe, private lab. A whole new position for a private lab, when the private labs say the first visit would probably take, for quality control, a day, and then for the one test an additional two hours? So I have to wonder about the efficacy of the fiscal note. However, I am concerned that the Minority Report's Fiscal Note does not include the cost of those things that the Department has already committed to implementing and is implementing.

I have heard it said that it is not fair, and that the Minority Report addresses fairness by taking this proposal and putting it into a committee. Well, that committee is going to be designed in such a way to make certain that the use of private labs will be done in a fair way. That is exactly what they are going to do. But the industry came to us and said, please do not put this bill and this question into another committee, to be debated and discussed for another several years. We have flats that are closing at an accelerated rate all the time and we need to get on with it." That is why we would like you to vote no on the Minority Reports, so we can move on to a bill that I think really solves problems for 1,600 working families in the state. For the 450 members of the Maine Clammers Association—the representatives of which are sitting up in the balcony—for the 350 people who make their sole living up and down the coast every year, whether there is ice on the flats or if it is 90 degrees on the flats, they go out every tide and dig.

I would like to just share with the concern that there will be the haves and the have-nots. We certainly want things to be fair, so I asked the Maine Clammers Association to contact members up and down the coast and ask them: Is this fair to have private labs when there are organizations that are unable to make use of them? I got a letter back from one of the people who is on the Clam Association in Machiasport—that seemed to be somewhere Downeast, I'd say—and they said: "I've been keeping up to date with the water quality review and private labs bill. It has come to my attention that some individuals feel the implementation of private labs that the Downeast region will be at a disadvantage. I am writing to tell you that myself, and the other local shellfish harvesters that I have spoken with, do not agree with this assumption. In my view, it does not put us at a disadvantage. What it does do is it provides an opportunity for the state to make use of additional resources, in cooperation with their public labs, in order to make certain that resources are allocated in a more intelligent way."

Now, in regards to the Fiscal Note, one of the other things that the Shellfish Commission will be considering will be a whole set of fees that might be changed and arranged, and it is going to be done in concert with the industry in order to help pay for some of the costs. That is a lot of money in that Report that we cannot talk about right now. I would point out, also, that when I proposed the water quality bill a year ago, we were told by the Department it was going to cost \$60,000 and there was no way that we could do it. The industry went out and raised \$40,000, and the Department came up with \$5,000, and the Maine Planning Office came up with another \$5,000. Funny thing: That money was put into an account in a municipality in order to have quality control and fiscal control over it, and they are now sending the money back that did not get spent. How did that fiscal note get so inflated? I don't know how that happens.

Mr. Speaker, this is a good bill, and when the water quality people did their review, they did not write specifically about private labs; they did write about adding staff, and they did write about creating a shellfish advisory council. But when I emailed one of the members that came and did the water quality review, the FDA member who is now retired, Tom Harrington, and he wrote me back and said, "I believe this is a policy decision regarding private labs, that the State Legislature should decide, that it is up to you to make a decision regarding how to address this issue."

Lastly, I have slightly different information about labs—of course, this is Maine—and labs in other states, I understand, are still doing private testing: in California, in Mississippi, in Rhode Island, in New York, in Connecticut, in Delaware, in Louisiana, and there are a number of states where they send the testing to their university labs. The question really is though, what is right for Maine, if the state in this fiscal environment cannot afford to increase the staff the way the Department would like for the labs, and the municipalities have said we would like to work with you in cooperation with you in order to augment and supplement what you are doing so that we can get clam flats opened, shouldn't be the working and partnership with those folks.

I guess I have one last point. The five years that it takes to do the sampling at the rate that the state is doing it, that is because it is the bare minimum the FDA requires—one water sample in each location where shellfish will be harvested, one water sample every two months. So you might have clean water for three or four years and the water quality is good and everyone is out there digging, and then a septic system fails upstream, and the septic comes down and pollutes the flat. But because they are only testing once every two months, the average number of tests, the 30 test average, starts going up in to a potentially



dangerous area, yet because they have had three of four years of good water, the averages have not yet hit the point where they close the flat. Doesn't it make more sense to work cooperatively with the municipalities and test twice a month, and be able to open and close flats within a year and three months so that we have more clean water, more safety, and more cooperation between municipalities, working families, and the state? Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Mazurek.

Representative **MAZUREK**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I promise you I will be brief. What I would like to say though is that I am on the Minority Report based on the fact of the creation of the two-tiered system in the State of Maine, for those communities that have and those communities that do not have. I know my good friend from Sullivan, Representative Eaton, is in opposition to this and spoke quite passionately about it. The reality is that it will happen, as much as we like to say it will not happen, in reality a two-tiered system will come about between those communities that can afford it and those communities that cannot afford it. I think that we have to be very much aware of what we are creating here. Some of these areas that are most hard hit economically are in the have-not position and will be even driven further to have less and less, so please give it some serious consideration. I think that we have to be very careful on what we are creating here. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Phippsburg, Representative Percy.

Representative **PERCY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The peer review that was done last year was done fully supported by all of the industry members, as well as the Marine Resources Committee, and that is where we hope that your focus will lie.

It is changed. The Department, as I told you, is working with the FDA to change the implementation of water sampling; however, not all of industries supported the idea of specifically using private labs and that is why the Minority Report speaks specifically about private labs in this way. The Shellfish Advisory Council will have the conversation about private labs with the Department of Marine Resources. We had two work sessions on this bill, and in both work sessions, it came out that there were other members of industry that were not 100 percent comfortable with going straight to private labs without further investigation. So a point of clarification, just to let you know, the Minority Report supports the conversation about private labs. Thank you so much and I hope that you will follow my light.

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

Representative **GERZOFSKY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Only a fool would get up and speak after this long debate, so give me just a moment of your attention because all I want to say is let's use our common sense. We are looking at a divided Committee Report; you can see how that Committee Report has been divided; you know the issues. It is either the Legislature is going to set policy and procedures and oversight of the Department, so they can. I was elected, I was sent here to set priorities, I was sent here to set oversight, and know I would hope that we would all vote that way. Follow my light, let's kill this Minority Report and start making some common sense in this building. We have been here debating far too long.

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

Representative **ADAMS**: Thank you Mr. Speaker. Mr.

Speaker, Men and Women of the House. In the matter of those that may be first in line or last in line, under the system proposed by the Report not before us now, I take great opportunity to learn from Mayor Mazurek, from Rockland, and I can assure from having talked with the folks back in the municipality that I represent, we have the resources. Portland will always be first in line, no issue there. My concern is for the broader issue that was brought forward in committee and somewhat in this debate. I assure you, looking at this side by side on the salmon-colored sheet you have in front of you, that nothing faster, nothing sooner, and nothing first will result any better than by adopting the Report that is before us now, or simply hiring two more lab technicians, one in Lamoine and one in Boothbay Harbor, where the whole problem begins.

All issues can be worked out and, in fact, that is the point of number three on the Minority Report side of the sheet: worked out with caution and step by step. I would point out to you that mention of other labs that do fish tests, milks tests, tests for orange just which incidentally clams do not make, all are different things. Just because you can test for apples, does not mean you can test for onions. Labs within the State of Maine have had to be stripped of their authority to test on behalf of all of us, because they violated certain laws respecting water quality for healthy beaches and for oysters.

The state has to have a role in choosing where these things are done, who does them, and who does them well. The two-tiered system of haves and have-nots has played out in every state where this has been attempted: Thems that has, gets; thens that don't, won't. To avoid that, the Legislature will set the policy, as you will find back in item four on the salmon colored sheet over on the left. It is not the fiscal note that we cannot speak about that rests in the other bill, these fiscal notes are not set by clams, they are not set by diggers, they are not set by the DMR, they are set by the Fiscal Office, and unfortunately until something else comes their way to tell them that it is improper, it stands, and will be born to the Appropriations' table, where it will go the fate of many a glimmering dream, this particular session of the Legislature. If you wish to see action, I suggest strongly you vote the Minority Report. If you wish to see something done for the people we care about, I suggest strongly you vote for the Minority Report. If you want to help the coast, I say the best way to help the coast is to help all the coast, not just my part of it. Thank you.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Webster.

Representative **WEBSTER**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. My apology, Mr. Speaker, for rising again; I want to set something straight: Labs are certified by a federally appointed state employee, who assures that the laboratory fulfills the obligations, whether it be apple juice, fish, or meat, or milk, or shellfish. They will do that and allow a lab to do this simple test, and it will provide fairness so that people up and down the coast have an opportunity to open flats that have been remediated once that septic system has been cleaned up, so it does not have to stay closed for five years waiting for DMR to come back.

However, in regards to fairness up and down the coast, I would hope that this body would have a little bit more faith in the Shellfish Advisory Council that is being established with this legislation. The Shellfish Advisory Council will include those members, who had concerns about this legislation, and those members who are complete in support of this legislation, and the members of the Department of Marine Resources, and together they are going to hammer out the process that we should allow them to do. That is what they are asking for us to do, they are

asking us to give them this option, this tool, and to ensure that there is fairness. I think we can trust the working people of Maine to do a good job at making sure of what they promise. The Maine Clammers Association and others have said, "We will work with all the growing areas to make sure that this is fair." I think we can have faith in them. Thank you, Mr. Speaker.

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

**ROLL CALL NO. 251**

YEA - Adams, Annis, Blanchard, Boland, Canavan, Connor, Dunn, Eberle, Fischer, Grose, Hayes, Marley, Mazurek, Muse, Peoples, Percy, Pingree, Rand, Smith N, Theriault, Trinward, Tuttle, Watson, Mr. Speaker.

NAY - Austin, Ayotte, Babbidge, Barstow, Beaudette, Beaudoin, Beaulieu, Berry, Berube, Blanchette, Brautigam, Briggs, Browne W, Bryant, Burns, Cain, Campbell, Carey, Carter, Casavant, Cebra, Chase, Clark, Cleary, Conover, Cotta, Craven, Cray, Crockett, Crosthwaite, Curtis, Dill, Driscoll, Duchesne, Eaton, Edgecomb, Faircloth, Farrington, Finch, Finley, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Gifford, Giles, Gould, Greeley, Hamper, Hanley S, Harlow, Haskell, Hill, Hinck, Hogan, Jackson, Jacobsen, Johnson, Jones, Joy, Kaenrath, Knight, Koffman, Lansley, Lewin, Lundeen, MacDonald, Makas, Marean, McDonough, McFadden, McKane, McLeod, Miller, Millett, Mills, Miramant, Moore, Nass, Norton, Patrick, Pendleton, Perry, Pieh, Pilon, Pinkham, Plummer, Pratt, Prescott, Priest, Rector, Richardson D, Richardson W, Rines, Robinson, Rosen, Samson, Sarty, Savage, Saviello, Schatz, Silsby, Simpson, Sirois, Strang Burgess, Sutherland, Sykes, Tardy, Thibodeau, Thomas, Tibbetts, Treat, Valentino, Vaughan, Wagner, Walker, Weaver, Webster, Weddell, Wheeler, Woodbury.

ABSENT - Bliss, Duprey, Emery, Pineau, Piotti.

Yes, 24; No, 122; Absent, 5; Excused, 0.

24 having voted in the affirmative and 122 voted in the negative, with 5 being absent, and accordingly the Minority **Ought to Pass as Amended Report was NOT ACCEPTED.**

Subsequently, on motion of Representative GERZOFSKY of Brunswick, the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-741) was READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Thursday, March 27, 2008.

**SENATE PAPERS**

Bill "An Act To Ensure Equitable Payment for E-9-1-1 Services" (EMERGENCY)

(S.P. 905) (L.D. 2279)

Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** suggested and ordered printed.

Came from the Senate, **REFERRED** to the Committee on **UTILITIES AND ENERGY** and ordered printed.

**REFERRED** to the Committee on **UTILITIES AND ENERGY** in concurrence.

Resolve, Authorizing the Creation of a Veterans Campus and the Conveyance of the State's Interest in Certain Real Property in the City of Bangor

(S.P. 904) (L.D. 2275)

Committee on **LEGAL AND VETERANS AFFAIRS** suggested and ordered printed.

Came from the Senate, **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed.

**REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** in concurrence.

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

The SPEAKER: The Chair recognizes the Representative from Mexico, Representative Briggs who wishes to address the House on the record.

Representative **BRIGGS:** Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise today and ask that we adjourn today in a moment of silence, in honor of the soldier, Tyler Smith, from my neighboring town of Bethel, Maine. He was killed in the line of duty in Iraq this past weekend. May our thoughts and prayers go out to his family during this difficult time. Thank you, Mr. Speaker.

At this point, the Members of the House stood and joined in a moment of silence in honor of Army Pvt. Tyler J. Smith, of Bethel.

**REPORTS OF COMMITTEE**

**Divided Reports**

Majority Report of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-806)** on Bill "An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2008 and June 30, 2009" (EMERGENCY)

(H.P. 1547) (L.D. 2173)

Signed:

Senators:

ROTUNDO of Androscoggin

MARTIN of Aroostook

Representatives:

FISCHER of Presque Isle

CRAVEN of Lewiston

MILLS of Farmington

CAIN of Orono

VALENTINO of Saco

WEBSTER of Freeport

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-807)** on same Bill.

Signed:

Senator:

TURNER of Cumberland

Representatives:

MILLETT of Waterford

FLOOD of Winthrop

ROBINSON of Raymond

GILES of Belfast

**READ.**

Representative FISCHER of Presque Isle moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative Fischer.

Representative **FISCHER**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Tonight I move the Report of the majority of the Appropriations Committee, but I want to say that it is not something that I take great satisfaction in.

The five members of the Appropriations Committee, from the Republican side of the aisle, are tremendous advocates for their beliefs and are exceedingly hard workers, and I have the utmost respect for the work that they have done. The five members of this body, we could not ask for better partners to work with on the second floor. Led by the Representative from Waterford, Representative Millett, that caucus did yeoman's work, as did our caucus, and I want to thank them for the efforts that they expended down on the second floor. They worked through illness; they worked through late nights, long days; and I think you all should know that regardless of the division that we may be talking about over the next few days, it is not a personal disagreement with anyone. We have our beliefs, others have their beliefs, and in this case we just happen to disagree, but I think that when I go home after this session, I will continue to talk about the agreements that we had.

You have to remember that this Report represents a great deal of work done together, that the Republicans and the Democrats on the Appropriations Committee worked almost to the end together. These were not decisions made apart; in fact, they were decisions made hand in hand with the policy committees. The Committee on Health and Human Services, the members of that committee sat in the well of our committee, days and nights with us, to come up with most of the decisions that are represented in both the Majority and the Minority Reports. Please remember that this is not a bitter or divisive time in this body; there is a simple disagreement about a small number of issues that could not be bridged and we accept that, but we leave friends from that second floor.

I also want to remind you that the way we got into this situation was not something that this Legislature is responsible for. Last year, we passed a bipartisan, two-thirds budget in June, and it was something that all of us were proud of; it structurally changed state government. And yet, because of the national economy, because of the credit crisis and the mortgage crunch that we all hear about when we read the Business pages of the newspaper, we had a \$95 million revenue downturn in December. Many states had similar revenue downturns, and many states are grappling with the same choices that we are here in Maine, so our committee came back in January and we began to work on how to bridge that gap. As we neared the completion of our work, we got more bad news from the national economy, another \$95 million hole in our state's budget, and nobody did anything wrong. We worked together more and more, we had more public hearings, we had more work sessions, in a bipartisan way to try to bridge that gap. In the end, we agreed on a vast majority of the items that are in both Reports, roughly \$150 million of the \$190 or so, were agreed in a bipartisan way.

I think that it is important that we often forget about the others who help us with our work here in Maine, we are a part-time Legislature. We could not do this on our own, and I think it is important that we thank the people on the policy committees. We thank the individuals from the public, who came and testified; we want to thank the advocates, who spent days and nights here

with us as well; and most especially, we want to thank the staff of both partisan offices, of the Speaker, of the President's Office, of the administration; and also of the nonpartisan offices like the Office of Fiscal and Program Review, who are still working to draft all of the amendments that people have brought forward to them, and we will not be able to consider them all, because there were so many of them, until tomorrow. But all of those folks deserve credit from us here in this Chamber.

The last thing I want to say before I close this evening is that the work that our committee did over the summer was unusual. Generally, the Appropriations Committee meets, roughly, once a month, throughout the break and our two sessions. Yet this summer, our committee met at least twice a month all summer, so when people say that there is a downturn in the economy and then another, our committee was very well prepared for those downturns because we worked all summer together looking for efficiencies, and many of the ideas that are represented in both Reports come from the work that we did in the warm days of August, and the cooler days of September and October, and the snows of November and December, that was work that was being done here in the Legislature to prepare us for what we will have to do now with this budget.

Again, I want to thank the members of our committee for the great work that they did, and I want to remind you all that as we come forward tomorrow to consider amendments, that we should do so in the most respectful way, because we want to leave here friends in a few weeks, not enemies, and we want people to be proud of the way that we conducted ourselves in the people's business. Mr. Speaker, when the vote is taken, I request the yeas and nays.

Representative FISCHER of Presque Isle **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: 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. 252**

YEA - Adams, Babbidge, Barstow, Beaudette, Beaudoin, Berry, Blanchard, Blanchette, Brautigam, Briggs, Bryant, Cain, Canavan, Carey, Carter, Casavant, Clark, Cleary, Connor, Conover, Craven, Crockett, Dill, Driscoll, Duchesne, Dunn, Eaton, Eberle, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Harlow, Hayes, Hill, Hinck, Hogan, Jackson, Jones, Kaenrath, Koffman, Lundeen, MacDonald, Makas, Marley, Mazurek, Miller, Mills, Miramant, Norton, Patrick, Pendleton, Peoples, Percy, Perry, Pieh, Pilon, Pineau, Pingree, Piotti, Pratt, Priest, Samson, Schatz, Silsby, Simpson, Sirois, Smith N, Sutherland, Theriault, Treat, Trinward, Tuttle, Valentino, Wagner, Watson, Webster, Weddell, Wheeler, Mr. Speaker.

NAY - Annis, Austin, Ayotte, Beaulieu, Boland, Browne W, Burns, Campbell, Cebra, Chase, Cotta, Cray, Crosthwaite, Curtis, Edgecomb, Finley, Fitts, Fletcher, Flood, Gifford, Giles, Gould, Greeley, Grose, Hamper, Hanley S, Jacobsen, Johnson, Joy, Knight, Lansley, Lewin, Marean, McDonough, McFadden, McKane, McLeod, Millett, Moore, Muse, Nass, Pinkham, Plummer, Prescott, Rector, Richardson D, Richardson W, Rines, Robinson, Rosen, Sarty, Savage, Saviello, Strang Burgess, Sykes, Tardy, Thibodeau, Thomas, Tibbetts, Vaughan, Walker, Weaver, Woodbury.

ABSENT - Berube, Bliss, Duprey, Emery, Haskell, Rand.  
Yes, 82; No, 63; Absent, 6; Excused, 0.

82 having voted in the affirmative and 63 voted in the negative, with 6 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-806)** was **READ** by the Clerk.

On motion of Representative PINGREE of North Haven, **TABLED** pending **ADOPTION** of **Committee Amendment "A" (H-806)** and later today assigned.

---

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act To Establish a Wellness Tax Credit"

(H.P. 1443) (L.D. 2059)

Signed:

Senators:

PERRY of Penobscot  
STRIMLING of Cumberland  
NASS of York

Representatives:

PIOTTI of Unity  
RAND of Portland  
CLARK of Millinocket  
GOULD of South Berwick  
WATSON of Bath  
CHASE of Wells  
PILON of Saco  
LANSLEY of Sabattus

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-805)** on same Bill.

Signed:

Representatives:

KNIGHT of Livermore Falls  
WOODBURY of Yarmouth

**READ.**

Representative PIOTTI of Unity moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

The **SPEAKER**: The Chair recognizes the Representative from Belfast, Representative GILES.

Representative **GILES**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise not to debate this bill. This was a bill that I submitted, and I fondly call it the wellness bill. I thank the Tax Committee for their work and their time on this. In the end, I just decided the timing of the bill was not good.

The bill, just real quickly, was to encourage wellness in the workplace. As you know, health insurance costs, health costs in general, are rising tremendously in this country and it seemed appropriate that we might take a step to encourage business owners to encourage their employees to live healthier lifestyles, thereby helping to lower those costs and live better. I was pleased that I got the unanimous support of the Legislative Council to bring this in on an emergency basis, and it would have created a \$100 per employee tax deduction, with a maximum of \$10,000 per employee, on a tax credit basis. That is the good piece, that I think the timing for this was good.

The not so good piece is there is no money for a tax credit right now, so unfortunately I am going to let this go as the Taxation Committee has recommended. I will say, though, there are several other states that are considering this type of legislation, there is movement afoot, there are some bills

nationally that are along this line, again, to try to incent our employers to help our employees lead better lives. With that said, I thank you all and look forward to maybe bringing this back next year.

Subsequently, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

---

#### 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 Conserve Gasoline and Preserve Clean Air"

(H.P. 1440) (L.D. 2056)

(H. "A" H-786 to C. "A" H-765)

**TABLED** - March 25, 2008 (Till Later Today) by Representative JACKSON of Allagash.

**PENDING - PASSAGE TO BE ENGROSSED.**

On motion of Representative HINCK of Portland, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-765)** was **ADOPTED**.

On further motion of the same Representative, the rules were **SUSPENDED** for the purpose of **FURTHER RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **House Amendment "A" (H-786)** to **Committee Amendment "A" (H-765)** was **ADOPTED**.

On further motion of the same Representative **House Amendment "A" (H-786)** to **Committee Amendment "A" (H-765)** was **INDEFINITELY POSTPONED**.

The same Representative **PRESENTED House Amendment "B" (H-820)** to **Committee Amendment "A" (H-765)** which was **READ** by the Clerk and **ADOPTED**.

**Committee Amendment "A" (H-765)** as Amended by **House Amendment "B" (H-820)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (H-765)** as Amended by **House Amendment "B" (H-820)** thereto and sent for concurrence. **ORDERED SENT FORTHWITH.**

---

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

---

On motion of Representative BRIGGS of Mexico, the House adjourned at 5:58 p.m., until 9:00 a.m., Thursday, March 27, 2008 in honor and lasting tribute to Army Pvt. Tyler J. Smith, of Bethel, Jerome P. O'Kane, of Millinocket and H. Sturgis Hodgdon, of Hollis.