

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Third Legislature
State of Maine

Daily Edition

First Special Session
April 1, 2008 to April 18, 2008

Pages 1760 - 2135

**STATE OF MAINE
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
FIRST SPECIAL SESSION
JOURNAL OF THE SENATE**

In Senate Chamber
Thursday
April 10, 2008

Senate called to order by President Beth Edmonds of
Cumberland County.

Prayer by Reverend Scott Planting of Fairbanks Union Church in
Farmington.

REVEREND PLANTING: Let us pray. Gracious God, by whose providence all things are ordered and in whose love all things find their purpose, under whose justice all our purposes are judged, we ask Your blessing upon each member of this Maine Senate as they do their work this day. We are thankful for their devotion to their high calling to serve the people of the state of Maine. Today we, the people of Maine, are thankful for the work of this Body, for long hours of travel to the Senate, for grappling with complex issues, for balancing local interests with statewide needs, for listening closely to points of view different from their own, and for simply showing up day after day and committing to the work that needs to be done. Today we, the people of Maine, are especially thankful for the service of those Senators whose terms soon come to an end. As this legislative session completes its season help each of us in our many places and varied causes to support their best efforts to serve our common good. In all things uphold us as a people bound to one another and to You by trust that arises out of high purposes and love that flourishes in shared hopes. Amen.

Reading of the Journal of Wednesday, April 9, 2008.

Doctor of the day, Lisa Letourneau, MD, MPH of Scarborough.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.C. 768

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

April 9, 2008

The Honorable Beth Edmonds
President of the Senate of Maine
123rd Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 123rd Maine Legislature, the Joint Standing Committee on Labor has had under consideration the nomination of Carol B. Gilmore of Charleston, for reappointment to the Maine Labor Relations Board.

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

| | | | |
|--------|-----------------|---|---|
| YEAS | Senators | 2 | Strimling of Cumberland, Sullivan of York |
| | Representatives | 9 | Tuttle of Sanford, Burns of Berwick, Clark of Millinocket, Driscoll of Westbrook, Duprey of Hampden, Hamper of Oxford, Haskell of Portland, Johnson of Greenville, Thomas of Ripley |
| NAYS | | 0 | |
| ABSENT | | 2 | Sen. Dow of Lincoln, Rep. Jackson of Allagash |

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Carol B. Gilmore of Charleston, for reappointment to the Maine Labor Relations Board, be confirmed.

Signed,

S/Ethan Strimling
Senate Chair

S/John L. Tuttle Jr.
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **MARTIN** of Aroostook, Nomination
TABLED until Later in Today's Session, pending
CONSIDERATION.

The Following Communication: S.C. 769

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

April 9, 2008

The Honorable Beth Edmonds
President of the Senate of Maine
123rd Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 123rd Maine Legislature, the Joint Standing Committee on Labor has had under consideration the nomination of Karl Dornish, Jr. of Winslow, for reappointment to the Maine Labor Relations Board.

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

| | | | |
|--------|-----------------|---|---|
| YEAS | Senators | 2 | Strimling of Cumberland, Sullivan of York |
| | Representatives | 9 | Tuttle of Sanford, Burns of Berwick, Clark of Millinocket, Driscoll of Westbrook, Duprey of Hampden, Hamper of Oxford, Haskell of Portland, Johnson of Greenville, Thomas of Ripley |
| NAYS | | 0 | |
| ABSENT | | 2 | Sen. Dow of Lincoln, Rep. Jackson of Allagash |

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Karl Dornish, Jr. of Winslow, for reappointment to the Maine Labor Relations Board, be confirmed.

Signed,

S/Ethan Strimling
Senate Chair

S/John L. Tuttle Jr.
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **MARTIN** of Aroostook, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION.**

The Following Communication: S.C. 770

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

April 9, 2008

The Honorable Beth Edmonds
President of the Senate of Maine
123rd Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 123rd Maine Legislature, the Joint Standing Committee on Labor has had under consideration the nomination of Peter T. Dawson of Hallowell, for reappointment to the Maine Labor Relations Board.

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

| | | | |
|--------|-----------------|---|---|
| YEAS | Senators | 2 | Strimling of Cumberland, Sullivan of York |
| | Representatives | 9 | Tuttle of Sanford, Burns of Berwick, Clark of Millinocket, Driscoll of Westbrook, Duprey of Hampden, Hamper of Oxford, Haskell of Portland, Johnson of Greenville, Thomas of Ripley |
| NAYS | | 0 | |
| ABSENT | | 2 | Sen. Dow of Lincoln, Rep. Jackson of Allagash |

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Peter T. Dawson of Hallowell, for reappointment to the Maine Labor Relations Board be confirmed.

Signed,

S/Ethan Strimling
Senate Chair

S/John L. Tuttle Jr.
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **MARTIN** of Aroostook, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION.**

The Following Communication: S.C. 771

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

April 9, 2008

The Honorable Beth Edmonds
President of the Senate of Maine
123rd Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 123rd Maine Legislature, the Joint Standing Committee on Labor has had under consideration the nomination of Robert L. Piccone of Portland, for reappointment to the Maine Labor Relations Board.

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

| | | | |
|--------|-----------------|---|---|
| YEAS | Senators | 2 | Strimling of Cumberland, Sullivan of York |
| | Representatives | 9 | Tuttle of Sanford, Burns of Berwick, Clark of Millinocket, Driscoll of Westbrook, Duprey of Hampden, Hamper of Oxford, Haskell of Portland, Johnson of Greenville, Thomas of Ripley |
| NAYS | | 0 | |
| ABSENT | | 2 | Sen. Dow of Lincoln, Rep. Jackson of Allagash |

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Robert L. Piccone of Portland, for reappointment to the Maine Labor Relations Board, be confirmed.

Signed,

S/Ethan Strimling
Senate Chair

S/John L. Tuttle Jr.
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **MARTIN** of Aroostook, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION.**

The Following Communication: S.C. 772

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

April 9, 2008

The Honorable Beth Edmonds
President of the Senate of Maine
123rd Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 123rd Maine Legislature, the Joint Standing Committee on Labor has had under consideration the nomination of Wayne W. Whitney of Brunswick, for reappointment to the Maine Labor Relations Board.

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

| | | | |
|--------|-----------------|---|---|
| YEAS | Senators | 2 | Strimling of Cumberland, Sullivan of York |
| | Representatives | 9 | Tuttle of Sanford, Burns of Berwick, Clark of Millinocket, Driscoll of Westbrook, Duprey of Hampden, Hamper of Oxford, Haskell of Portland, Johnson of Greenville, Thomas of Ripley |
| NAYS | | 0 | |
| ABSENT | | 2 | Sen. Dow of Lincoln, Rep. Jackson of Allagash |

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Wayne W. Whitney of Brunswick, for reappointment to the Maine Labor Relations Board, be confirmed.

Signed,

S/Ethan Strimling
Senate Chair

S/John L. Tuttle Jr.
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **MARTIN** of Aroostook, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION**.

The Following Communication: S.C. 773

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

April 9, 2008

The Honorable Beth Edmonds
President of the Senate of Maine
123rd Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 123rd Maine Legislature, the Joint Standing Committee on Labor has had under consideration the nomination of Richard L. Hornbeck of Bowdoinham, for reappointment to the Maine Labor Relations Board.

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

| | | | |
|--------|-----------------|---|---|
| YEAS | Senators | 2 | Strimling of Cumberland, Sullivan of York |
| | Representatives | 9 | Tuttle of Sanford, Burns of Berwick, Clark of Millinocket, Driscoll of Westbrook, Duprey of Hampden, Hamper of Oxford, Haskell of Portland, Johnson of Greenville, Thomas of Ripley |
| NAYS | | 0 | |
| ABSENT | | 2 | Sen. Dow of Lincoln, Rep. Jackson of Allagash |

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Richard L. Hornbeck of Bowdoinham, for reappointment to the Maine Labor Relations Board, be confirmed.

Signed,

S/Ethan Strimling
Senate Chair

S/John L. Tuttle Jr.
House Chair

READ and **ORDERED PLACED ON FILE**.

On motion by Senator **MARTIN** of Aroostook, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION**.

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Establish a Labor Center within the University of Maine System"

H.P. 115 L.D. 123

Reported that the same **Ought to Pass as Amended by Committee Amendment "C"** (H-908).

Signed:

Senators:

BOWMAN of York
MITCHELL of Kennebec

Representatives:

NORTON of Bangor
MAKAS of Lewiston
HARLOW of Portland
FARRINGTON of Gorham

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

Signed:

Senator:

MILLS of Somerset

Representatives:

EDGECOMB of Caribou
McFADDEN of Dennysville
SUTHERLAND of Chapman
STRANG BURGESS of Cumberland

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "C" (H-908) AS AMENDED BY HOUSE AMENDMENT "B" (H-964)** thereto.

Reports **READ**.

Senator **BOWMAN** of York moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On motion by Senator **WESTON** of Waldo, **TABLED** until Later in Today's Session, pending the motion by Senator **BOWMAN** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Resolve, Directing the Department of Health and Human Services To Adopt Rules Governing the Use of Lakes by Licensed Child Care Facilities (EMERGENCY)

H.P. 1417 L.D. 2033

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-890)**.

Signed:

Senators:

BRANNIGAN of Cumberland
MARRACHÉ of Kennebec
RAYE of Washington

Representatives:

PERRY of Calais
JONES of Mount Vernon
GROSE of Woolwich
MILLER of Somerville
BEAUDOIN of Biddeford
WALKER of Lincolnville
CAMPBELL of Newfield
LEWIN of Eliot
FINLEY of Skowhegan

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

Signed:

Representative:

CONNOR of Kennebunk

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-890) AS AMENDED BY HOUSE AMENDMENT "A" (H-975)** thereto.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-890) **READ**.

House Amendment "A" (H-975) to Committee Amendment "A" (H-890) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-890) as Amended by House Amendment "A" (H-975) thereto, **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

Divided Report

The Majority of the Committee on **NATURAL RESOURCES** on Bill "An Act To Protect Children's Health and the Environment from Toxic Chemicals in Toys and Children's Products"

H.P. 1432 L.D. 2048

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-898)**.

Signed:

Senators:

MARTIN of Aroostook
BARTLETT of Cumberland

Representatives:

WAGNER of Lewiston
MIRAMANT of Camden
EBERLE of South Portland
KOFFMAN of Bar Harbor
DUCHESNE of Hudson
BABBIDGE of Kennebunk
McDONOUGH of Scarborough

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-899)**.

Signed:

Senator:

SMITH of Piscataquis

Representatives:

HAMPER of Oxford
ANNIS of Dover-Foxcroft
AYOTTE of Caswell

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-898)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-898) AS AMENDED BY HOUSE AMENDMENTS "A" (H-948) AND "B" (H-973)** thereto.

Reports **READ**.

Senator **MARTIN** of Aroostook moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-898)** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-898)** Report, in concurrence.

Senate

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Improve the Use of Information Regarding Sex Offenders to Better Ensure Public Safety and Awareness"

S.P. 147 L.D. 446

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-594)**.

Signed:

Senators:

DIAMOND of Cumberland
McCORMICK of Kennebec
SHERMAN of Aroostook

Representatives:

GERZOFISKY of Brunswick
BLANCHETTE of Bangor
GREELEY of Levant
HANLEY of Gardiner
PLUMMER of Windham
TIBBETTS of Columbia
KAENRATH of South Portland
HASKELL of Portland
SYKES of Harrison

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (S-595)**.

Signed:

Representative:

HILL of York

Reports **READ**.

On motion by Senator **DIAMOND** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-594)** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-594) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-594)**.

Ordered sent down forthwith for concurrence.

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Reduce the Income Tax"

S.P. 303 L.D. 952

Reported that the same **Ought to Pass as Amended by Committee Amendment "B" (S-589)**.

Signed:

Senator:

NASS of York

Representatives:

GOULD of South Berwick
KNIGHT of Livermore Falls
WOODBURY of Yarmouth
CHASE of Wells
PILON of Saco
LANSLEY of Sabattus

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

Signed:

Senators:

PERRY of Penobscot
STRIMLING of Cumberland

Representatives:

RAND of Portland
CLARK of Millinocket
WATSON of Bath
PIOTTI of Unity

Reports **READ**.

Senator **PERRY** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

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

Senator **NASS:** Thank you, Madame President, men and women of the Senate. Just a brief explanation of this. This idea has been around for a while. This, basically, would allow, or would mandate I guess, that 15% of any income tax increases from one period to the next would be moved over to an account. Tax relief, I think, for Maine's citizens which was created by the L.D. 1 report. It's never been used. I would urge acceptance of the Majority Ought to Pass Report. Thank you.

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

READ ONCE.

Committee Amendment "B" (S-589) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**.

Ordered sent down forthwith for concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

ORDERS OF THE DAY

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

NOMINATION - of Carol B. Gilmore of Charleston for reappointment to the Maine Labor Relations Board

Tabled - April 10, 2008, by Senator **MARTIN** of Aroostook

Pending - **CONSIDERATION**

(In Senate, April 10, 2008, Communication (S.C. 768) from the Committee on **LABOR, READ** and **ORDERED PLACED ON FILE**.)

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 123rd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#404)

YEAS: Senators: None

NAYS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HASTINGS, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senator: BROMLEY

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Carol B. Gilmore** of Charleston for reappointment to the Maine Labor Relations Board was **CONFIRMED**.

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

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

NOMINATION - of Karl Dornish, Jr. of Winslow for reappointment to the Maine Labor Relations Board

Tabled - April 10, 2008, by Senator **MARTIN** of Aroostook

Pending - **CONSIDERATION**

(In Senate, April 10, 2008, Communication (S.C. 769) from the Committee on **LABOR, READ** and **ORDERED PLACED ON FILE**.)

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 123rd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#405)

YEAS: Senators: None

NAYS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HASTINGS, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senator: BROMLEY

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Karl Dornish, Jr.** of Winslow for reappointment to the Maine Labor Relations Board was **CONFIRMED**.

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

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

NOMINATION - of Peter T. Dawson of Hallowell for reappointment to the Maine Labor Relations Board

Tabled - April 10, 2008, by Senator **MARTIN** of Aroostook

Pending - **CONSIDERATION**

(In Senate, April 10, 2008, Communication (S.C. 770) from the Committee on **LABOR, READ** and **ORDERED PLACED ON FILE.**)

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 123rd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#406)

YEAS: Senators: None

NAYS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HASTINGS, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senator: BROMLEY

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Peter T. Dawson** of Hallowell for reappointment to the Maine Labor Relations Board was **CONFIRMED**.

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

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

NOMINATION - of Robert L. Piccone of Portland for reappointment to the Maine Labor Relations Board

Tabled - April 10, 2008, by Senator **MARTIN** of Aroostook

Pending - **CONSIDERATION**

(In Senate, April 10, 2008, Communication (S.C. 771) from the Committee on **LABOR, READ** and **ORDERED PLACED ON FILE.**)

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 123rd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#407)

YEAS: Senators: None

NAYS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HASTINGS, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senator: BROMLEY

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Robert L. Piccone** of Portland for reappointment to the Maine Labor Relations Board was **CONFIRMED**.

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

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

NOMINATION - of Wayne W. Whitney of Brunswick for reappointment to the Maine Labor Relations Board

Tabled - April 10, 2008, by Senator **MARTIN** of Aroostook

Pending - **CONSIDERATION**

(In Senate, April 10, 2008, Communication (S.C. 772) from the Committee on **LABOR, READ** and **ORDERED PLACED ON FILE.**)

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 123rd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#408)

YEAS: Senators: None

NAYS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HASTINGS, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senator: BROMLEY

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Wayne W. Whitney** of Brunswick for reappointment to the Maine Labor Relations Board was **CONFIRMED**.

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

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

NOMINATION - of Richard L. Hornbeck of Bowdoinham for reappointment to the Maine Labor Relations Board

Tabled - April 10, 2008, by Senator **MARTIN** of Aroostook

Pending - **CONSIDERATION**

(In Senate, April 10, 2008, Communication (S.C. 773) from the Committee on **LABOR, READ** and **ORDERED PLACED ON FILE.**)

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 123rd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#409)

YEAS: Senators: None

NAYS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HASTINGS, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senator: BROMLEY

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Richard L. Hornbeck** of Bowdoinham for reappointment to the Maine Labor Relations Board was **CONFIRMED**.

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

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Make Minor Substantive Changes to the Tax Laws"

H.P. 1531 L.D. 2151
(C "A" H-854; S "A" S-537;
S "B" S-557)

In House, April 2, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-854).**

In Senate, April 7, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-854) AND SENATE AMENDMENTS "A" (S-537) AND "B" (S-557), in NON-CONCURRENCE.**

Comes from the House, that Body **INSISTED**.

On motion by Senator **PERRY** of Penobscot, **TABLED** until Later in Today's Session, pending **FURTHER CONSIDERATION**.

Non-Concurrent Matter

Resolve, To Provide a Rebate of Diesel Fuel Taxes Paid by
Maine's Forest Products Industry (EMERGENCY)
S.P. 860 L.D. 2228
(C "A" S-522)

In Senate, April 4, 2008, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (S-522)**.

Comes from the House, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (S-522) AS
AMENDED BY HOUSE AMENDMENT "A" (H-981)** thereto, in
NON-CONCURRENCE.

On motion by Senator **SCHNEIDER** of Penobscot, **TABLED** until
Later in Today's Session, pending **FURTHER CONSIDERATION**.

COMMUNICATIONS

The Following Communication: H.C. 519

**STATE OF MAINE
CLERK'S OFFICE
2 STATE HOUSE STATION
AUGUSTA, MAINE 04333**

April 9, 2008

Honorable Joy J. O'Brien
Secretary of the Senate
123rd Maine Legislature
Augusta, Maine 04333

Dear Secretary O'Brien:

The House voted today to insist on its previous action whereby it
accepted the Majority Ought Not to Pass Report of the Committee
on Taxation on Bill "An Act To Conform the Maine Tax Laws for
2007 to the United States Internal Revenue Code" (H.P. 1524)
(L.D. 2145)(EMERGENCY).

Sincerely,

S/Millicent M. MacFarland
Clerk of the House

READ and ORDERED PLACED ON FILE.

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **AGRICULTURE, CONSERVATION AND
FORESTRY** on Bill "An Act To Amend the Animal Welfare Laws"
H.P. 1545 L.D. 2171

Reported that the same **Ought to Pass as Amended by
Committee Amendment "A" (H-965)**.

Comes from the House with the Report **READ** and **ACCEPTED**
and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY
COMMITTEE AMENDMENT "A" (H-965) AS AMENDED BY
HOUSE AMENDMENT "A" (H-982)** thereto.

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

READ ONCE.

Committee Amendment "A" (H-965) **READ**.

House Amendment "A" (H-982) to Committee Amendment "A" (H-
965) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-965) as Amended by House
Amendment "A" (H-982) thereto, **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and
PASSED TO BE ENGROSSED AS AMENDED, in concurrence.

Divided Report

The Majority of the Committee on **BUSINESS, RESEARCH AND
ECONOMIC DEVELOPMENT** on Bill "An Act To License Certified
Professional Midwives"

H.P. 1616 L.D. 2253

Reported that the same **Ought to Pass as Amended by
Committee Amendment "A" (H-935)**.

Signed:

Senators:

BROMLEY of Cumberland
SCHNEIDER of Penobscot

Representatives:

SAMSON of Auburn
MacDONALD of Boothbay
PRESCOTT of Topsham
SMITH of Monmouth
CLEARY of Houlton

The Minority of the same Committee on the same subject
reported that the same **Ought To Pass as Amended by
Committee Amendment "B" (H-936)**.

Signed:

Senator:
COURTNEY of York

Representatives:
BEAULIEU of Auburn
AUSTIN of Gray
SILSBY of Augusta
RECTOR of Thomaston
BEAUDETTE of Biddeford

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-935)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-935)**.

Reports **READ**.

Senator **SCHNEIDER** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-935)** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-935)** Report, in concurrence.

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Clarify the Laws on Licensing for Charitable and Fraternal Organizations and Games of Chance" H.P. 1597 L.D. 2236

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-961)**.

Signed:

Senators:
MARRACHÉ of Kennebec
BRYANT of Oxford

Representatives:
WEDDELL of Frankfort
BRYANT of Windham
PATRICK of Rumford
TRINWARD of Waterville
TUTTLE of Sanford
CAREY of Lewiston

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-962)**.

Signed:

Senator:
PLOWMAN of Penobscot

Representatives:
MOORE of Standish
NASS of Acton
PINKHAM of Lexington Township
FITTS of Pittsfield

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-962)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-962)**.

Reports **READ**.

Senator **MARRACHÉ** of Kennebec moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-962)** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-962)** Report, in concurrence.

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Recouple Maine Estate Tax with Federal Estate Tax" H.P. 1081 L.D. 1556

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-633)**.

Signed:

Senator:
NASS of York

Representatives:
PIOTTI of Unity
KNIGHT of Livermore Falls
CLARK of Millinocket
WOODBURY of Yarmouth
CHASE of Wells
PILON of Saco
LANSLEY of Sabattus

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

Signed:

Senators:
PERRY of Penobscot
STRIMLING of Cumberland

Representatives:
RAND of Portland
WATSON of Bath

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-633)**.

Reports **READ**.

Senator **PERRY** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **PERRY:** Thank you, Madame President, ladies and gentlemen of the Senate. You may notice my vote is actually on the Minority Ought Not to Pass Report. This issue is recoupling Maine's estate tax with the federal estate tax. The federal estate tax has gone through some changes over the years, increasing the exemptions, and it is scheduled to come back down to a much lower level in 2010. It had seemed like a difficult time to try to reconfirm when they haven't settled on the federal level where they want to be on the estate tax. In the past it had been my preference to try to do tax policy either through the budget, where it was paid for, or through a comprehensive tax reform package. This issue ended up in neither. It's a more difficult task, in my opinion, to fund a \$30 million tax proposal with \$1 million on the table but this is an important issue so I would encourage everyone to vote in favor of it. Thank you.

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

Senator **NASS:** Thank you, Madame President, ladies and gentlemen of the Senate. This is supposed to be our grand debate about the estate tax so I'm disappointed. However, I think I'll try to rise to the occasion and point out just a couple of things. For us, this was about folks leaving Maine because of this and other public policy decisions we've made over the years. There is a grand debate about whether people are actually leaving the state because of the estate issue. We believe they are, although we don't know for sure because our income tax records are pretty confidential. We offer several prominent names that have been in the news. Mr. Alford never was a resident of Maine, we don't know why. Apparently folks like the former Governor Curtis are no longer residents of Maine. We're not quite sure why. A guy named George Mitchell, the last I heard he was a resident of New York City. Not quite sure why. All of this would suggest one of the reasons might be our estate tax and other public policy decisions. Our effort here was to not just get their estates but to get them living in the state because of the potential of other taxes they may pay, like income taxes. Nobody will ever notice this because of the fact that we don't know for sure. You don't know for sure, by the way, where these folks live. It's very common in this state for what we call six-months-and-a-day folks to continue, especially when they retire, living in the climate that is warmer, like perhaps Florida, and as they have for many years, return to Maine in the summer where they were for years and years and

pay taxes in Maine as residents of Maine. It takes very little change in their lifestyle to become a resident of someplace else. What we do know, because they are told by their tax advisors, that they are well advised not to die in the state of Maine and to find another residence. They don't have to change their lives very much except if they are near the margin one day, one day gets them residency someplace else. It gets them out from under our different, more restrictive, and expensive estate tax and all of our other problems. Madame President, I appreciate the motion of Ought to Pass as Amended and I urge, despite the expense of this, that you join me in support of this.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Strimling.

Senator **STRIMLING:** Thank you, Madame President. My good colleague, the Senator from York, Senator Nass, you can rest assured there will at least be some debate on this issue because I will not be supporting the motion in front of us. When you look at the fiscal note of this bill, which is \$50 million over two years, above and beyond the irresponsibility of that, above and beyond the fact that there is no possibility that we have that money and it would be a fool's errand for us to even pretend, is the morality of it. We have just passed a budget a week ago in which we cut \$200 million from many of the neediest in this state, the poorest in this state, the disabled in this state, the working families of this state, as we cut \$200 million what this does in one fell swoop is decide to shift \$50 million to the wealthiest in this state. I can understand us being balanced. I can understand that if we are going to have to share the pain it should go across the board, and if we have to share in the riches that should go across the board. What you would be voting on right now is to shift \$50 million to the wealthiest. Unless you think I am referring to the wealthiest as people who you might consider to be middle class, understand that what this deals with is people with over \$1 million. I think it's fair for us to say those are some of the wealthiest of our state. You must have assets over \$1 million before this begins to kick in, for us to recouple with the federal. You will be providing a tax break for those with over \$1 million. We're not talking about middle-income working class tax relief. We're talking about the wealthiest. You will be shifting from those who are the neediest to them. Not only will you be doing that, you'll be doing it less than a week after we cut \$200 million from those who are the poorest, the neediest, the disabled, and our seniors in this state. What message does that send? Madame President, this bill is completely fiscally irresponsible and I would say morally irresponsible as well. I strongly encourage my colleagues to vote it down.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Benoit.

Senator **BENOIT:** Thank you, Madame President, ladies and gentlemen of the Senate. I'm going to tell you what message that sends to me. The message that I get is that six out of the people in my neighborhood of ten homes were born and raised in Maine, left the state, got jobs for big companies, made big money, and they now live out-of-state because of taxes just like this. I listen to it when they come back in the summer months for the few weeks that they are here. They spend a lot of time traveling. They spend a lot of money in Florida and their place of residency. I would love to be able to have them be in Phippsburg and be

residents of the state of Maine. I'd love to have just a little bit of the money that they would spend in Phippsburg if they were to live here and get entrenched in the community. I see what they spend when they are here just a few weeks in the summertime and it's almost unbelievable that someone can have that kind of money to spend. I'm in awe of it. I will never see it. I'm the poor person that lives in my neighborhood compared to them. My husband and I have worked very hard to have everything that we have had. As self-employed people, we have not been fortunate enough to land ourselves into a company, go to the top, and receive all of the benefits of the big company. These folks should not be penalized because they have worked hard to overachieve and they can spend their money anywhere they want to spend it. To say to them that we don't want their money, we don't care how much they make, we're going to take it and we're going to penalize them for being here I think is almost irresponsible to a certain degree. I listen to their conversations and I know the kind of money that would be spent if they were to be staying in Maine. Furthermore, I think that we need to take a close look at this. If we're going to encourage CEOs to be building homes and staying in the towns where their companies are going to be that are going to employ the very people that need to be employed, we can't go forward with economic development in a full sloop if we're cutting off the people that can afford to put the economic development into the state. We have to make it worth their while to come here. As much as that is repulsive to some people, that people can make that much money, I say if they want to bring it to Maine and they want to spend it here I'm going to take it. I don't want to feel that because of our laws, our rules and regulations, and our taxes that they have to choose other states. I see this as taking care of the most needy. Someone has to pay that bill and I think it's the people that are making those six and above figures that are going to be paying the bill. If we penalize them over and over and over again we are just going to be playing this game of talking about the most needy and not doing anything to truly give them a chance to survive in this state because eventually we will not have anyone who can afford to help the most needy. That is my take on this legislation and I will be supporting it.

THE PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Smith.

Senator **SMITH:** Thank you, Madame President. I just wanted to make a few remarks on this bill because it goes to some of the economic policies that I am most interested in as a Senator at this time. We, as you all know, have not had a great record here in Maine looking at our economic growth over the last five, six, or seven years while the national economy has basically grown, depending on the quarter and it is measured in quarters, anywhere from 4% to 7% up until the last quarter or so. Maine has grown at 1% to 2% and that is one of our biggest problems, not only in providing jobs for our young people as they come out of high school and college. We simply aren't providing the jobs that we need. As a matter of fact, our job growth has been practically flat, if not slightly down trending, according to many of the statistics that you have all seen during this legislative session. The underlying problem here is that, with this particular bill, as far as I'm concerned, is not the sort of sociological issues that have been discussed momentarily here. We really must stop what is a very important capital flight from the state.

I was involved in this issue back in 1980 when it came before us earlier. We had the same sort of thing going on with the old

Maine inheritance tax at the time that the legislature at that time adopted the Maine estate tax. It was a serious issue. I was at that time involved with a very large law firm that had a very large estate planning practice. We saw, on a monthly basis, large amounts of capital basically flowing to Florida. At the same time, when comparing notes with other large law firms and accounting firms in the state, it was very apparent what was going on.

On December 10th the Senators from Penobscot, Senator Perry, Penobscot, Senator Schneider, and I think the Senator from Hancock, Senator Rosen, and maybe some others in this room attended a meeting in Bangor at Merrill Bank where this very matter was discussed. Through the course of that discussion at that meeting it was made very apparent to us what was going on. As a matter of fact, officials of the Merrill Bank indicated that capital was leaving that bank, as were accounts sized at \$1 million and up. That is money that underpins the economic growth of the Bangor area and probably a much larger area here in Maine. It is termed old money and has been in those accounts for a very long time. Multigenerational money. It is the cheapest money that a bank has to lend. It can be replaced but it has to be borrowed from the feds or other larger banks at higher costs, which makes borrowing much more costly for those who are undertaking economic expansions of their businesses.

This is a very basic issue that I think we need to address. Back in 1980, when this was addressed, the legislature phased in the estate tax over a four year period. It phased in fully, as I recall, on July 1, 1984. This is the kind of thing that I think ought to be considered on this bill. Certainly we cannot afford, under these circumstances, this price tag but this policy ought to be decided for the economic good of this state, for our children who are going to be seeking jobs, for our entrepreneurs who need the best deal that they can get in borrowing money to expand their businesses, and I think this legislature can do as well as the legislature did in 1980 in figuring out a phase-in to this thing. I think, frankly, if that money that I've just talked about going to Florida were to know that the phase-in was in progress, or was about to start, that money would stay here. It would not fly to Florida. I would advise the legislature to go ahead, let's get this thing somewhere, and safeguard it for the moment. Let's not kill it. Let's figure out a way to phase this in over the next four or five years in a way that we can afford this year and then going forward over the next rough spot that we've got in the next fiscal period. That would be my suggestion and I certainly hope we do it. I thank you for your time.

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

Senator **PERRY:** Thank you, Madame President, ladies and gentlemen of the Senate. I just want to respond briefly to a few things I've heard, primarily the example of the neighborhood with the folks that are no longer Maine residents. It would strike me that these folks are leaving the state, but keeping their homes here to use part of the year, that property taxes really aren't their biggest concern. If they are spending huge money while they are here, probably sales taxes aren't their biggest concern. If they are keeping property here in the state of Maine and they die in another state, and their estates are larger than the \$1 million limit of this time, they will be paying some estate tax here in the state of Maine. When I hear these anecdotal stories it makes me think that the income tax may be the most pressing need right now to address and estate tax certainly with that. We had an opportunity

within this legislature to reduce our income tax by 30%. We came up a little short and did not do that this year. I'm just asking that every member of this Body that will be back in the next session, I may be here and I may not, make a commitment to move forward on a comprehensive tax reform package that addresses these issues and moves the state forward. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Dow.

Senator **DOW:** Thank you, Madame President. I was glad to hear the good Senator from Bangor bring in the income taxes. I'd like to expound on that too. I have a whole new book on all the taxes but I'm sure you would prefer that I stick to the subject.

The boss in my house, I don't want you to have any misunderstandings, I'm the boss. If you don't believe me, just come in the house sometime when I'm doing the dishes or something. I've got an apron that says 'The Boss' on it. When I'm vacuuming the floor or cleaning the kitty litter or something there will be no mistake about who the boss is. The other boss of the household, and she's not the number cruncher because I am, has said that when we retire we're moving. It's all because of the weather. She's already figured out that we've got not only the income taxes to think about for the rest of our lives but also the estate taxes as I'm going to have to leave estates to my children, or probably most of it to one of them to continue a store. My wife has already figured out that we won't be able to stay as residents of this state, which means I'll be 182 days here and 183 somewhere else and I'll have to buy an out-of-state hunting and fishing license to be completely considered a non-resident because they have been catching people that way. Just to add to this.

We need to take a look over the horizon and down the road. It isn't the short term losses, it's the long term gains. My contention is, and always has been, that you are going to take in more money in state taxes when a state is charging and takes in their fair share like all the rest of the states, or many of them anyway. When we try to take in a much bigger portion than what I consider the fair share then it results in the problems that we have. People have to move upon retirement. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Arrostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President and members of the Senate. You won't believe it, and I really wasn't planning to get up, but after I heard all these comments I just want to. There are all kinds of reasons why people move. We will never stop that. In my area people who go to Florida obviously are concerned about the estate tax. They are concerned about the income tax. They are concerned about all these things. The number one concern they have is the six feet of snow we still have. Anyone who's got money is not going to be spending it during the wintertime in northern Maine. They are going to go to Phoenix, Arizona, or anyplace in Florida or Georgia and they come back in the summer. There are some who may stay the extra day to make it more than a half a year but the vast majority are gone. I've talked to someone in Florida this past weekend. I suggested they stay there for another month because we still have five feet of snow on the ground.

We had an opportunity last time to start some movement on tax reform in this state. We lost it and now it's not here and we are not in a position to do it this year. In order to get some tax reform we need to have people with open minds on both ends of the political parties in order to make some changes. Some of you, apparently, are having young people move out. I want to tell you that in my area they are staying, more so than when I ended up graduating from high school because after I graduated from high school I could have a reunion party anytime in Bristol, Connecticut, where 75 of my classmates were in the general area out of a class of 121. We don't have that today. Of course that same crowd that graduated from high school with me are now coming back, building nice homes, and we love their property taxes because in my hometown 70% of all property taxes are paid by non-residents because they've all built nice homes. I wonder, when we talk about high property taxes, maybe we ought to be talking about tax reform and giving our people real tax breaks on the property tax level so municipalities don't take it all and let other people pay the freight as they return because they haven't been here for 60 years to pay it.

We could go on all day about this issue, estate and all the rest of it. The only way we are going to solve it, the only way, is if people forget their biases, forget their political parties, their ideologies, and are willing to work together to put a plan together. Hopefully this legislature, at some point, will be able to accomplish that. Even though some of us have tried this year and last year, that didn't happen.

Off Record Remarks

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

Senator **PLOWMAN:** Thank you, Madame President, men and women of the Senate. I'm going to date myself a little bit. In 1996, when I served my third term in House, a wonderful woman by the name of Elizabeth Noyes passed away in Portland. That was before we decoupled from the federal plan. I remember sitting in Appropriations the day that we spent the Noyes money, which was \$6 million. As we balanced the budget this year I couldn't help but wonder, if Mr. Alford had been a resident of the state of Maine even under the old plan, which Mrs. Noyes fell under, how much his estate would have been able to produce for the State of Maine. I'd like to look at all of the people that we have helped foster their financial success, such as Stephen King from Bangor. I think if we, as a society, are driving our most successful, most productive, and most giving people to other states to take advantage of the tax situations there then we are certainly not looking at the long term. It's really hard to look and do a fiscal note, I imagine, on who we'd like to have within the state when their day comes. We'd kind of like to have them be a resident of the state of Maine I would imagine. They certainly won't be as long as we chase them out of the state of Maine because they have families and businesses that they have an obligation to before their obligation to pay taxes. You can't help but understand that this is where their obligation lies first. If it were reasonable then people would make the decision. The way we have hunted down people and told them that 181 days is fine

as long as they don't leave their money here and as long as they don't participate in different organizations or financial activities here. It absolutely amazes me what we put our own citizens through. When we start to balance budgets, think about if we had someone who has passed away like Mrs. Noyes through whom you can find \$6 million for domestic abuse problems and prevention programs. That's where that money went for that year because Mrs. Noyes wasn't driven out of the state of Maine. There are many people who have ties to the state of Maine. Wonderful and caring people who spent their whole lives working for the greatness of the state of Maine. Is it a tax break for Senator George Mitchell? I would suggest that he wouldn't have liked that kind of comment today. I don't think he'd like to be called an uncaring millionaire who just doesn't want to make sure that he doesn't leave his money in the state of Maine. I apologize, Madame President, I may be wandering. I think that you need to look at the long term. This is another short sighted look at what we do for Maine. We cannot continue to take care of the poor by driving away the wealthy. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Perry to Accept the Majority Ought to Pass as Amended Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#410)

YEAS: Senators: BARTLETT, BENOIT, BOWMAN, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HASTINGS, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, SULLIVAN, TURNER, WESTON

NAYS: Senators: BRANNIGAN, STRIMLING, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senator: BROMLEY

31 Senators having voted in the affirmative and 3 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **PERRY** of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-633) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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

REPORTS OF COMMITTEES

House

Divided Report

Ten members of the 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

Reported in Report **"A"** that the same **Ought to Pass**.

Signed:

Senators:

BOWMAN of York
MITCHELL of Kennebec

Representatives:

NORTON of Bangor
FINCH of Fairfield
SUTHERLAND of Chapman
HARLOW of Portland
FARRINGTON of Gorham
MUSE of Fryeburg
STRANG BURGESS of Cumberland
MAKAS of Lewiston

Two members of the same Committee on the same subject reported in Report **"B"** that the same **Ought to Pass as Amended by Committee Amendment "A" (H-814)**.

Signed:

Representatives:

McFADDEN of Dennysville
EDGECOMB of Caribou

One member of the same Committee on the same subject reported in Report **"C"** that the same **Ought Not to Pass**. Signed:

Senator:

MILLS of Somerset

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

Reports **READ**.

Senator **BOWMAN** of York moved the Senate **ACCEPT** Report **"A"**, **OUGHT TO PASS**, in concurrence.

On motion by Senator **WESTON** of Waldo, **TABLED** until Later in Today's Session, pending the motion by Senator **BOWMAN** of York to **ACCEPT** Report **"A"**, **OUGHT TO PASS**, in concurrence.

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

ENACTORS

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

Emergency Measure

An Act Regarding the Maine Regulatory Fairness Board
H.P. 1371 L.D. 1937
(C "A" H-933)

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

Emergency Measure

An Act To Provide Tax Treatment Consistency for Limited Liability and S Corporations

H.P. 1433 L.D. 2049
(C "A" H-919)

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

Emergency Measure

An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2008-09 and To Require Notation of Tax Enhancement Programs Approved by the County Commissioners

H.P. 1613 L.D. 2251
(C "A" H-920)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Measure

An Act To Reduce the Amount Collected for the Purpose of the E-9-1-1 System

H.P. 1628 L.D. 2265
(C "A" H-929)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Measure

An Act To Amend the Maine Certificate of Need Act of 2002
H.P. 1659 L.D. 2301
(H "A" H-960)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Off Record Remarks

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

ENACTORS

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

Emergency Resolve

Resolve, To Preserve Access to Assisted Living Services for Maine's Elderly and Disabled Citizens

H.P. 1447 L.D. 2063
(C "A" H-922)

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

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 3: Maine Clean Election Act and Related Provisions, a Major Substantive Rule of the Commission on Governmental Ethics and Election Practices

H.P. 1621 L.D. 2258

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Major Substantive MaineCare Benefits Manual, Chapter III, Section 21, Home and Community Benefits for Members with Mental Retardation or Autistic Disorder, a Major Substantive Rule of the Department of Health and Human Services

H.P. 1649 L.D. 2287
(C "A" H-944)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Off Record Remarks

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

ENACTORS

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

Acts

An Act To Amend the Laws Concerning Genetically Engineered Plants and Seeds

H.P. 1159 L.D. 1650
(C "A" H-851)

An Act To Update the Regional Greenhouse Gas Initiative

H.P. 1381 L.D. 1945
(H "A" H-932 to C "A" H-768)

An Act To Raise the Meal Allowance for Members of the Board of Environmental Protection and the Maine Land Use Regulation Commission

S.P. 763 L.D. 1969
(C "B" S-489)

An Act To Clarify the Authority of the Board of Directors of Regional School Unit No. 1

H.P. 1412 L.D. 2028
(C "A" H-912)

An Act Concerning Technical Changes to the Tax Laws

S.P. 823 L.D. 2154
(S "A" S-550 to C "A" S-508)

An Act To Advance the Maine Economy

S.P. 827 L.D. 2159
(C "A" S-566)

An Act To Strengthen Maine's Consumer Protections against "Slamming"

H.P. 1632 L.D. 2269
(C "A" H-893; S "A" S-569)

An Act Regarding the Sunrise Review of Oral Health Care Issues

H.P. 1643 L.D. 2277
(C "A" H-934)

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

An Act To Fund the Universal Childhood Immunization Program

H.P. 1603 L.D. 2242
(C "A" H-931)

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

An Act Establishing an Outdoor Wood Boiler Fund

S.P. 891 L.D. 2263
(C "A" S-567)

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

An Act To Protect Children from Hazardous Lead-based Paint

H.P. 1584 L.D. 2218
(C "A" H-921)

Senator **WESTON** of Waldo requested a Roll Call.

On motion by Senator **MARTIN** of Aroostook, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence. (Roll Call Requested)

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

ENACTORS

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

Acts

An Act To Create the Mental Health Homicide, Suicide and Aggravated Assault Review Board

H.P. 1389 L.D. 1951
(C "A" H-950)

An Act To Provide Ongoing Funding for the Historic Preservation Tax Credit

S.P. 802 L.D. 2008
(C "A" S-573)

An Act To Prohibit Health Care Facilities from Charging for Treatment To Correct Mistakes or Preventable Adverse Events

H.P. 1428 L.D. 2044
(H "A" H-907 to C "A" H-873)

An Act To Allow Limited Charitable Solicitations by Law Enforcement Associations

H.P. 1557 L.D. 2187
(C "A" H-949)

An Act Concerning Public Records Exceptions

H.P. 1579 L.D. 2212
(C "A" H-957)

An Act To Amend the Municipal Tree Growth Reimbursement Formula

H.P. 1639 L.D. 2274
(C "A" H-952)

An Act To Permit Persons 65 Years of Age or Older To Defer Payment of Property Taxes

H.P. 1670 L.D. 2310

An Act To Invest in Maine's Young Children

H.P. 1671 L.D. 2311

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

An Act To Implement the Recommendations of the Commission To Study the Promotion, Expansion and Regulation of the Harness Racing Industry

H.P. 1554 L.D. 2184
(C "A" H-953)

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

An Act To Improve the Administration of State-Municipal Revenue Sharing

H.P. 1641 L.D. 2276
(C "A" H-951)

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

An Act To Ensure That Children's Toys and Products Are Free of Lead

H.P. 1437 L.D. 2053
(H "A" H-955 to C "A" H-930)

On motion by Senator **WESTON** of Waldo, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence. (Roll Call Ordered)

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

ENACTORS

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

Resolves

Resolve, To Establish a Statewide Protocol for the Early Detection and Treatment of Autism

S.P. 771 L.D. 1977
(C "A" S-565)

Resolve, Directing the Commissioner of Agriculture, Food and Rural Resources To Review and Make Recommendations Regarding the Regulation of Dog and Cat Breeding Facilities

H.P. 1394 L.D. 2010
(H "B" H-924 to C "A" H-803)

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
(C "A" S-568)

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

Resolve, To Establish a Moratorium on Development in Saco Bay
H.P. 1558 L.D. 2188
(C "A" H-896)

On motion by Senator **WESTON** of Waldo, **TABLED** until Later in Today's Session, pending **FINAL PASSAGE**, in concurrence.

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

ENACTORS

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

Mandate

An Act To Aid Victims of Identity Theft in Securing a Police Report
H.P. 1586 L.D. 2220
(C "A" H-958)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

ENACTORS

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

Emergency Measure

An Act To Establish the Shellfish Advisory Council and To Improve the Process of Reopening Clam Flats
H.P. 1422 L.D. 2038
(H "B" H-947; H "C" H-954
to C "A" H-741)

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

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

ENACTORS

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

Emergency Resolve

Resolve, Regarding Legislative Review of Chapter 61: State Board of Education Rules for Major Capital School Construction Projects, a Major Substantive Rule of the Department of Education and the State Board of Education
H.P. 1503 L.D. 2123
(C "B" H-869)

Comes From the House, **FAILED FINAL PASSAGE**.

On motion by Senator **BOWMAN** of York, **TABLED** until Later in Today's Session, pending **FINAL PASSAGE**, in **NON-CONCURRENCE**.

Senate at Ease.

Senate called to order by the President.

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

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

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

Senator **DAMON** of Hancock was granted unanimous consent to address the Senate off the Record.

On motion by Senator **MITCHELL** of Kennebec, **RECESSED** until 3:30 in the afternoon.

After Recess

Senate called to order by the President.

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

REPORTS OF COMMITTEES

Senate

Ought to Pass Pursuant to Public Law

Senator SCHNEIDER for the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act Regarding the Maine Economic Development Evaluation"
S.P. 926 L.D. 2317

Reported that the same **Ought to Pass**, pursuant to Public Law 2007, chapter 434, section 9.

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

COMMUNICATIONS

The Following Communication: S.C. 775

**STATE OF MAINE
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
COMMITTEE ON APPROPRIATIONS AND FINANCIAL
AFFAIRS**

April 10, 2008

Honorable Beth Edmonds, President of the Senate
Honorable Glenn Cummings, Speaker of the House
123rd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Cummings:

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

- | | |
|-----------|--|
| L.D. 1065 | Resolve, To Enhance the Education Opportunities for Maine's Early Childhood Workers |
| L.D. 2042 | An Act To Facilitate the Diversion of Persons with Mental Illness and Substance Abuse away from Incarceration through the Co-occurring Disorders Court |
| L.D. 2077 | An Act To Increase the State Subsidy for Adult Education within the Department of Education (EMERGENCY) |
| L.D. 2116 | An Act To Provide for the Construction of a Warehouse in Eastport (EMERGENCY) |
| L.D. 2208 | An Act To Provide Additional Funding for the Low-income Home Energy Assistance Program (EMERGENCY) |

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

Sincerely,

S/Sen. Margaret Rotundo
Senate Chair

S/Rep. Jeremy Fischer
House Chair

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

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

REPORTS OF COMMITTEES

House

Ought to Pass Pursuant to Joint Order

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act Regarding Flavored Cigarettes and Cigars" (EMERGENCY)
H.P. 1676 L.D. 2316

Reported that the same **Ought to Pass**, pursuant to Joint Order, H.P. 1656.

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

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

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in concurrence.

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

ORDERS

Joint Order

On motion by Senator **ROTUNDO** of Androscoggin, the following Joint Order:

S.P. 927

ORDERED, the House concurring, that the following bills and all their accompanying papers be recalled from the Governor's desk to the Senate:

1. "An Act To Amend the Maine Certificate of Need Act of 2002," H.P. 1659, L.D. 2301;
2. "An Act To Permit Persons 65 Years of Age or Older To Defer Payment of Property Taxes," H.P. 1670, L.D. 2310; and
3. "An Act To Invest in Maine's Young Children," H.P. 1671, L.D. 2311.

READ.

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

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. I just wanted to clarify that this to recall three bills from the Governor's desk that were inadvertently sent to him. They should have been placed on the Special Appropriations Table.

On further motion by same Senator, **PASSED.**

Sent down for concurrence.

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

COMMUNICATIONS

The Following Communication: S.C. 776

**STATE OF MAINE
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
COMMITTEE ON BUSINESS, RESEARCH AND ECONOMIC
DEVELOPMENT**

April 9, 2008

The Honorable Beth Edmonds
President of the Senate of Maine
123rd Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 123rd Maine Legislature, the Joint Standing Committee on Business, Research and Economic Development has had under consideration the nomination of Sheryl S. Gregory of Litchfield, for reappointment to the Maine State Housing Authority.

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

| | | | |
|------|-----------------|----|--|
| YEAS | Senators | 1 | Courtney of York |
| | Representatives | 10 | Smith of Monmouth, Austin of Gray, Beaudette of Biddeford, Beaulieu of Auburn, Cleary of Houlton, MacDonald of Boothbay, Prescott of Topsham, Rector of Thomaston, Samson of Auburn, Silsby of Augusta |

NAYS 0

ABSENT 2 Sen. Bromley of Cumberland,
Sen. Schneider of Penobscot

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Sheryl S. Gregory of Litchfield, for reappointment to the Maine State Housing Authority, be confirmed.

Signed,

S/Lynn Bromley
Senate Chair

S/Nancy E. Smith
House Chair

READ and ORDERED PLACED ON FILE.

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 123rd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#411)

YEAS: Senators: None

NAYS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HASTINGS, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senators: STRIMLING, SULLIVAN

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 2 Senators being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Sheryl S. Gregory** of Litchfield for reappointment to the Maine State Housing Authority was **CONFIRMED.**

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

The Following Communication: S.C. 777

**STATE OF MAINE
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
COMMITTEE ON BUSINESS, RESEARCH AND ECONOMIC
DEVELOPMENT**

April 9, 2008

The Honorable Beth Edmonds
President of the Senate of Maine
123rd Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 123rd Maine Legislature, the Joint Standing Committee on Business, Research and Economic Development has had under consideration the nomination of Faith (Nikki) McLean of Portland, for appointment to the Maine State Housing Authority.

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

| | | | |
|--------|-----------------|----|--|
| YEAS | Senators | 1 | Courtney of York |
| | Representatives | 10 | Smith of Monmouth, Austin of Gray, Beaudette of Biddeford, Beaulieu of Auburn, Cleary of Houlton, MacDonald of Boothbay, Prescott of Topsham, Rector of Thomaston, Samson of Auburn, Silsby of Augusta |
| NAYS | | 0 | |
| ABSENT | | 2 | Sen. Bromley of Cumberland, Sen. Schneider of Penobscot |

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Faith (Nikki) McLean of Portland, for appointment to the Maine State Housing Authority, be confirmed.

Signed,

S/Lynn Bromley
Senate Chair

S/Nancy E. Smith
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **MARTIN** of Aroostook, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION.**

The Following Communication: S.C. 778

**STATE OF MAINE
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
COMMITTEE ON BUSINESS, RESEARCH AND ECONOMIC
DEVELOPMENT**

April 9, 2008

The Honorable Beth Edmonds
President of the Senate of Maine
123rd Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 123rd Maine Legislature, the Joint Standing Committee on Business, Research and Economic Development has had under consideration the nomination of Cheri L. Walker of Falmouth, for appointment to the Finance Authority of Maine.

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

| | | | |
|--------|-----------------|----|--|
| YEAS | Senators | 1 | Courtney of York |
| | Representatives | 10 | Smith of Monmouth, Austin of Gray, Beaudette of Biddeford, Beaulieu of Auburn, Cleary of Houlton, MacDonald of Boothbay, Prescott of Topsham, Rector of Thomaston, Samson of Auburn, Silsby of Augusta |
| NAYS | | 0 | |
| ABSENT | | 2 | Sen. Bromley of Cumberland, Sen. Schneider of Penobscot |

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Cheri L. Walker of Falmouth, for appointment to the Finance Authority of Maine, be confirmed.

Signed,

S/Lynn Bromley
Senate Chair

S/Nancy E. Smith
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **MARTIN** of Aroostook, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION.**

The Following Communication: S.C. 779

**STATE OF MAINE
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

April 9, 2008

The Honorable Beth Edmonds
President of the Senate of Maine
123rd Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 123rd Maine Legislature, the Joint Standing Committee on Education and Cultural Affairs has had under consideration the nomination of Lisa S. Penney of New Gloucester, for appointment to the School Board of the Governor Baxter School for the Deaf.

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

| | | | |
|--------|-----------------|---|--|
| YEAS | Senators | 2 | Bowman of York, Mills of Somerset |
| | Representatives | 6 | Norton of Bangor, Edgecomb of Caribou, Farrington of Gorham, Harlow of Portland, McFadden of Dennysville, Sutherland of Chapman |
| NAYS | | 0 | |
| ABSENT | | 5 | Rep. Finch of Fairfield, Rep. Makas of Lewiston, Sen. Mitchell of Kennebec, Rep. Muse of Fryeburg, Rep. Strang Burgess of Cumberland |

Eight members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Lisa S. Penney of New Gloucester, for appointment to the School Board of the Governor Baxter School for the Deaf, be confirmed.

Signed,

S/Peter B. Bowman
Senate Chair

S/Jacqueline R. Norton
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **MARTIN** of Aroostook, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION.**

The Following Communication: S.C. 780

**STATE OF MAINE
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

April 9, 2008

The Honorable Beth Edmonds
President of the Senate of Maine
123rd Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 123rd Maine Legislature, the Joint Standing Committee on Education and Cultural Affairs has had under consideration the nomination of Samantha M. Bragg of New Gloucester, for appointment to the School Board of the Governor Baxter School for the Deaf.

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

| | | | |
|--------|-----------------|---|--|
| YEAS | Senators | 2 | Bowman of York, Mills of Somerset |
| | Representatives | 6 | Norton of Bangor, Edgecomb of Caribou, Farrington of Gorham, Harlow of Portland, McFadden of Dennysville, Sutherland of Chapman |
| NAYS | | 0 | |
| ABSENT | | 5 | Rep. Finch of Fairfield, Rep. Makas of Lewiston, Sen. Mitchell of Kennebec, Rep. Muse of Fryeburg, Rep. Strang Burgess of Cumberland |

Eight members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Samantha M. Bragg of New Gloucester, for appointment to the School Board of the Governor Baxter School for the Deaf, be confirmed.

Signed,

S/Peter B. Bowman
Senate Chair

S/Jacqueline R. Norton
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **MARTIN** of Aroostook, Nomination
TABLED until Later in Today's Session, pending
CONSIDERATION.

The Following Communication: S.C. 781

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

April 9, 2008

The Honorable Beth Edmonds
President of the Senate of Maine
123rd Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 123rd Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Honorable Rae Ann French of Augusta, for appointment as an Active Retired District Court Judge.

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

| | | | |
|--------|-----------------|---|--|
| YEAS | Senators | 2 | Hobbins of York, Hastings of Oxford |
| | Representatives | 9 | Simpson of Auburn, Berube of Lisbon, Bryant of Windham, Casavant of Biddeford, Dunn of Bangor, Gould of South Berwick, Jacobsen of Waterboro, Mills of Farmington, Nass of Acton |
| NAYS | | 0 | |
| ABSENT | | 2 | Rep. Dill of Cape Elizabeth, Sen. Nutting of Androscoggin |

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Honorable Rae Ann French of Augusta, for appointment as an Active Retired District Court Judge, be confirmed.

Signed,

S/Barry J. Hobbins
Senate Chair

S/Deborah L. Simpson
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **MARTIN** of Aroostook, Nomination
TABLED until Later in Today's Session, pending
CONSIDERATION.

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

SENATE REPORTS - from the Committee on **TAXATION** on Bill
"An Act To Reduce the Income Tax"

S.P. 303 L.D. 952
(C "B" S-589)

**Majority - Ought to Pass as Amended by Committee
Amendment "B" (S-589) (7 members)**

Minority - Ought Not to Pass (6 members)

In Senate, April 10, 2008, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-589).**

Comes from the House, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE.**

On motion by Senator **PERRY** of Penobscot, the Senate **INSISTED.**

Sent down for concurrence.

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act Requiring Long-range Budget Planning" H.P. 998 L.D. 1424

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-993)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-993)**.

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

READ ONCE.

Committee Amendment "A" (H-993) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

ENACTORS

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

Emergency Measure

An Act To Amend Certain Provisions of the Fish and Wildlife Laws

S.P. 776 L.D. 1982
(C "A" S-555; S "A" S-558)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Measure

An Act To Facilitate the Provision of Educational Loans for Maine Students and Families

S.P. 918 L.D. 2300
(C "A" S-584)

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

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 220: Methodology for Identification of Regional Service Centers, a Major Substantive Rule of the Executive Department, State Planning Office

H.P. 1612 L.D. 2250

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, To Extend the Pilot Project at the Juvenile Correctional Facilities

S.P. 923 L.D. 2312

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

Mandate

An Act To Ensure Equitable Payment for E-9-1-1 Services
S.P. 905 L.D. 2279
(C "A" S-580)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Acts

An Act To Allow for Annual Super Tournament Games by Nonprofit Charitable Organizations

S.P. 814 L.D. 2134
(C "A" S-576)

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
(H "A" H-967)

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

An Act To Provide Property Tax Relief

S.P. 766 L.D. 1972

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

An Act To Authorize the Operation of Slot Machines on Indian Island in Old Town

H.P. 532 L.D. 701
(H "B" H-923; S "A" S-582
to C "B" H-788)

On motion by Senator **WESTON** of Waldo, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **ROTUNDO:** Thank you, Madame President. I just wanted to clarify that normally this would have been sent to the Special Appropriations Table but it was exempted this afternoon by the Appropriations Committee. Thank you.

THE PRESIDENT: The pending question before the Senate is Enactment. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#412)

YEAS: Senators: BENOIT, BRANNIGAN, BRYANT, DAMON, DIAMOND, DOW, GOOLEY, HASTINGS, MARRACHE, MARTIN, MCCORMICK, MITCHELL, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, TURNER, WESTON

NAYS: Senators: BARTLETT, BOWMAN, BROMLEY, COURTNEY, HOBBINS, MILLS, NASS, SHERMAN, SMITH, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

23 Senators having voted in the affirmative and 12 Senators having voted in the negative, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

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

Resolve

Resolve, To Direct a Review of Issues Concerning the Maine Tree Growth Tax Law

H.P. 421 L.D. 543
(S "B" S-588 to C "A" H-656)

FINALLY PASSED and having been signed by the President was presented by the Secretary to the Governor for his approval.

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Establish a Labor Center within the University of Maine System"

H.P. 115 L.D. 123

Majority - **Ought to Pass as Amended by Committee Amendment "C" (H-908)** (6 members)

Minority - **Ought Not To Pass** (5 members)

Tabled - April 10, 2008, by Senator **WESTON** of Waldo

Pending - motion by Senator **BOWMAN** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence

(In House, April 9, 2008, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "C" (H-908) AS AMENDED BY HOUSE AMENDMENT "B" (H-964)** thereto.)

(In Senate, April 10, 2008, Reports **READ**.)

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

On motion by Senator **ROSEN** of Hancock, the Senate **RECONSIDERED** whereby it **ACCEPTED** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER**: Thank you, Madame President, ladies and gentlemen of the Senate. I'm curious as to why we would need another labor center in the university system and would pose that question to anyone who would care to answer.

THE PRESIDENT: The Senator from Cumberland, Senator Turner poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Strimling.

Senator **STRIMLING**: Thank you, Madame President. Labor history is a very important part of our history in Maine. Certainly it has been a big part of history across the United States. What this is trying to do is make sure that there is an area where we can study and look at labor's history and its role in our economy and the working families of Maine.

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

Senator **NASS**: Thank you, Madame President. I also would like to ask a question through the Chair.

THE PRESIDENT: The Senator may pose his question.

Senator **NASS**: Thank you, Madame President. My recollection is that there was a proposal early in the session to set up a labor center at the University of Southern Maine. I was also puzzled by that because we already had one at the University of Maine at Orono. My question is, is there a location specified for this and, if it is the University of Southern Maine, why do we need two?

THE PRESIDENT: The Senator from York, Senator Nass poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Strimling.

Senator **STRIMLING**: Thank you, Madame President. My understanding is that this is within southern Maine. As you often know, in our schools there are different students that you are working with in different parts of the state. This is a pretty important issue. Just like the University of Maine has classes that the University of Southern Maine has as well, we were looking at this and saying that because it's in the southern part of the state where there is a lot of labor history we need to be focusing on it in two different areas. I'll be honest with you, I'm not exactly sure if this specifies southern Maine. The original one did. I know this has become a Resolve, so I'm not sure but I can double check that.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Benoit.

Senator **BENOIT**: Thank you, Madame President. I'd like to pose a question through the Chair.

THE PRESIDENT: The Senator may pose her question.

Senator **BENOIT**: Thank you, Madame President. I'm not sure that I understand why we need two and if there is a fiscal note attached to this. I'd like to just comment on that if I may quickly. I think if there is I shall be voting against this because I think at a

time when we are trying desperately to cut back and take care of our most needy I'm not sure that this is a priority. Thank you.

THE PRESIDENT: The Chair would direct members to look at your calendar. You will that see this comes to us from the House with an amendment. You may want to read the House Amendment "B" and you may want to read Committee Amendment "C" prior to that. The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS**: Thank you, Madame President. Thank you for that reminder. I have on my screen the committee report to refresh my memory as to the issue that lies immediately before us. It does specify that the labor center be in southern Maine and it is in the form of a Resolve asking the Chancellor, or recommending to the Chancellor, that such a school be established. This is an odd thing to be doing at a time when the University of Maine is presently reviewing 26 of its various curricula with a view towards reducing their number and eliminating a number of the majors and the concentrations that they have been offering over the years because they have lost about 1,000 students in the last several years as a product, at least in part, of the expanding community colleges and the relatively flat rate of high school graduations.

I have to say that I remember as a kid delivering newspapers to the President of Gorham State Teachers College in the 1950s and 1960s who was absent from town during every spring when the legislature was in session because each one of the campuses had to send its President down here to fight for a place in the sun. At some point in the late 1960s we created the University System and we sort of sprung them loose, converted them into a single line item in our budget, and said to let the Board of Trustees, appointed by the Governor and approved by the legislature, govern this system and decide what majors there ought to be and where the resources of the university should best be allocated. It was probably one of the better decisions we've made. One of the first things they did was to spring themselves loose from our pension system and they are, I think, a happier bunch of employees in that system than ours.

We are well adrift of my initial point. I'm anticipating a later subject. I will sit down. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Arostook, Senator Martin.

Senator **MARTIN**: Thank you, Madame President and members of the Senate. If members would pull out Committee Amendment "C", it is accurate to say that this amendment was an attempt to establish a labor center. However, if you read the calendar it says that it is now amended by House Amendment "B" which wipes out the Committee Amendment and the bill and replaces both with a statement that supports inclusion of labor education at Maine public institutions of higher learning. It has nothing to do with establishing a labor center in the University of Maine System.

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

Senator **BOWMAN**: Thank you, Madame President. I don't think anybody answered the question about a fiscal note. There is no cost. There is no fiscal note.

THE PRESIDENT: The pending question before the Senate is Acceptance of the Majority Ought to Pass as Amended Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#413)

YEAS: Senators: BARTLETT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, DAMON, DIAMOND, HOBBS, MARRACHE, MARTIN, MITCHELL, NUTTING, PERRY, RAYE, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: BENOIT, COURTNEY, DOW, GOOLEY, HASTINGS, MCCORMICK, MILLS, NASS, PLOWMAN, ROSEN, SAVAGE, SHERMAN, SMITH, SNOWE-MELLO, TURNER, WESTON

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **BOWMAN** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "C" (H-908) **READ**.

House Amendment "B" (H-964) to Committee Amendment "C" (H-908) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "C" (H-908) as Amended by House Amendment "B" (H-964) thereto, **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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

Resolve, To Provide a Rebate of Diesel Fuel Taxes Paid by Maine's Forest Products Industry (EMERGENCY)
S.P. 860 L.D. 2228
(C "A" S-522)

Tabled - April 10, 2008, by Senator **SCHNEIDER** of Penobscot

Pending - **FURTHER CONSIDERATION**

(In Senate, April 4, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-522).**)

(In House, April 9, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-522) AS AMENDED BY HOUSE AMENDMENT "A" (H-981)** thereto, in **NON-CONCURRENCE**.)

Senator **SCHNEIDER** of Penobscot moved the Senate **RECEDE** and **CONCUR**.

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

Senator **SCHNEIDER:** Thank you, Madame President. The bill, as amended, comes from the House stripping the Emergency preamble and it further designates that the funds are not to come from the Transportation Budget but instead from the General Fund.

I want to just tell you a little bit of history on this piece of legislation. This is a piece of legislation that came from the very heart of the people. The grassroots. This was a group of people who came forward out of a crisis, the fuel crisis, and in particular the diesel fuel crisis. These independent truckers formed a coalition in order to address this crisis. They came forward to the Chief Executive as well as legislators to ask for assistance, to reach out and help them with this crisis that they are in. They are barely making ends meet. Some, as you know from the rally that was held outside in the parking area, are not making it. I have had many opportunities to be with these very hard working people and it was my goal to try to assist them with some rebate on the diesel fuel, at least on a temporary basis, to give them a little bit of relief. We give relief so often to people who are in need and sometimes we forget that occasionally the hard working people, the middle class people of this state, also need a little bit of assistance to get through a very difficult period. Until they can deal with their contracts, which right now they are not in a position to renegotiate, nor do they receive any kind of surcharge. Every dime that the people are making is going into their fuel tanks. It's a very, very difficult and sad situation. It is one in which they have reached out to me and asked for my help. It is one in which I have even received calls from bankers asking me to help these folks get through this difficult period. They are fearful that they are going to end up with trucks. Bankers ending up with trucks is not going to be very successful for anybody. We need truckers to have their trucks to do business and to keep the link in the chain going on an \$8 billion to \$10 billion industry in this state. The chain is going to be weakened when these independent truckers go under. I know that we have tried to help them through other means and we are strapped financially.

We went through gyrations this afternoon and earlier on whether or not to put an amendment on and reduce the fiscal note to try to get this from the contingency account, more commonly referred to as the Rainy Day Fund. These people are amazing people. Belinda Raymond, whom I've worked with throughout this process, said they stand united and they don't want to reduce the fiscal note because they would be leaving out those truckers who take their product away from the mills. The way I was going to address this by reducing the fiscal note would have been to only have it for those people taking product from the forest to the mills. They said no. I told them that it will likely mean that this will be a symbolic gesture and only a symbolic gesture because the General Fund is depleted.

They truly move me because they wanted to stand united and I wanted to stand with them. I wanted to help them. I wanted to help those who are most in need. They said no. They didn't want to splinter their coalition. They stand united. I know, and so do they because I have been very candid with them, that this is more than likely just a symbolic gesture to show that we stand

with them and it is my hope that you will all vote in favor of this, at least as a gesture, tonight.

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Schneider to Recede and Concur. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#414)

YEAS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HASTINGS, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, SULLIVAN, WESTON, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: NASS, SAVAGE, TURNER

32 Senators having voted in the affirmative and 3 Senators having voted in the negative, the motion by Senator **SCHNEIDER** of Penobscot to **RECEDE** and **CONCUR**, **PREVAILED**.

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

NOMINATION - of Faith (Nikki) McLean of Portland for appointment to the Maine State Housing Authority

Tabled - April 10, 2008, by Senator **MARTIN** of Aroostook

Pending - **CONSIDERATION**

(In Senate, April 10, 2008, Communication (S.C. 777) from the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**, READ and **ORDERED PLACED ON FILE**.)

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 123rd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#415)

YEAS: Senators: None

NAYS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HASTINGS, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Faith (Nikki) McLean** of Portland for appointment to the Maine State Housing Authority was **CONFIRMED**.

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

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

NOMINATION - of Cheri L. Walker of Falmouth for appointment to the Finance Authority of Maine

Tabled - April 10, 2008, by Senator **MARTIN** of Aroostook

Pending - **CONSIDERATION**

(In Senate, April 10, 2008, Communication (S.C. 778) from the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**, READ and **ORDERED PLACED ON FILE**.)

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 123rd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#416)

YEAS: Senators: None

NAYS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HASTINGS, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Cheri L. Walker** of Falmouth for appointment to the Finance Authority of Maine was **CONFIRMED**.

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

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

NOMINATION - of Lisa S. Penney of New Gloucester for appointment to the School Board of the Governor Baxter School for the Deaf

Tabled - April 10, 2008, by Senator **MARTIN** of Aroostook

Pending - **CONSIDERATION**

(In Senate, April 10, 2008, Communication (S.C. 779) from the Committee on **EDUCATION AND CULTURAL AFFAIRS**, READ and **ORDERED PLACED ON FILE**.)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **EDUCATION AND CULTURAL AFFAIRS** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 123rd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#417)

YEAS: Senators: None

NAYS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HASTINGS, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Lisa S. Penney** of New Gloucester for appointment to the School Board of the Governor Baxter School for the Deaf was **CONFIRMED**.

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

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

NOMINATION - of Samantha M. Bragg of New Gloucester for appointment to the School Board of the Governor Baxter School for the Deaf

Tabled - April 10, 2008, by Senator **MARTIN** of Aroostook

Pending - **CONSIDERATION**

(In Senate, April 10, 2008, Communication (S.C. 780) from the Committee on **EDUCATION AND CULTURAL AFFAIRS**, READ and **ORDERED PLACED ON FILE**.)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **EDUCATION AND CULTURAL AFFAIRS** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 123rd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#418)

YEAS: Senators: None

NAYS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HASTINGS, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Samantha M. Bragg** of New Gloucester for appointment to the School Board of the Governor Baxter School for the Deaf was **CONFIRMED**.

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

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

NOMINATION - of the Honorable Rae Ann French of Augusta for appointment as an Active Retired District Court Judge

Tabled - April 10, 2008, by Senator **MARTIN** of Aroostook

Pending - **CONSIDERATION**

(In Senate, April 10, 2008, Communication (S.C. 781) from the Committee on **JUDICIARY**, **READ** and **ORDERED PLACED ON FILE**.)

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 123rd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#419)

YEAS: Senators: None

NAYS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HASTINGS, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of the Honorable **Rae Ann French** of Augusta for appointment as an Active Retired District Court Judge was **CONFIRMED**.

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

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

HOUSE REPORTS - from the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To License Certified Professional Midwives" H.P. 1616 L.D. 2253

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-935)** (7 members)

Minority - **Ought To Pass as Amended by Committee Amendment "B" (H-936)** (6 members)

Tabled - April 10, 2008, by Senator **SCHNEIDER** of Penobscot

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-935)** Report, in concurrence

(In House, April 9, 2008, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-935)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-935)**.)

(In Senate, April 10, 2008, Reports **READ**.)

On motion by Senator **WESTON** of Waldo, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Bromley.

Senator **BROMLEY**: Thank you, Madame President, men and women of the Senate. I understand there has been lots of discussion about this bill and I'm sorry I wasn't here to push back at some of it. The certified professional midwives came to the BRED committee. I know you have a piece of paper that refers to them as lay-midwives. We're not talking about lay-midwives in this bill. They came to us and explained to us how difficult it is to practice what they do without access to some lifesaving medications. They explained what that meant, particularly around post-partum hemorrhages and how these medications were lifesaving. Let me say here at this point that there was a unanimous agreement of the committee that it was important that the midwives have access to these medications. There was no discussion. We had a couple of members on the committee who had given birth or had children recently and had seen the impact of these medications. Basically, all of us were in agreement. We wanted to make sure they had the medications.

A sunset review was conducted by the department that said that they really didn't need to license these people because their practice is safe. There was no danger to the public. There was no recorded incidents of any problems so there was no danger. However, the sunset review was based on the practice of midwives without having access to these medications. It was established that 100% of the committee wanted them to have access to the medications and 100% of the committee wanted to make sure that home births were as safe as possible. When the medical association testified they basically said to us that they were against home births. They didn't believe home births were a good thing. I think that's fine for them to say. I understand that. However we also know that home births happen, particularly in rural areas, and we wanted to make sure that if a woman elected to have a home birth that she could have that home birth in the most safe way possible. That would be with a certified professional midwife who had access to these medications.

The difference in the Majority and Minority Report is one simple thing. Some of us on the committee who believed that if we are going to allow people to have access to medications they ought to be licensed so we know who they are. They ought to be able to show their credentials and we ought to have the names and contact information of people who are having access to these medications. Also one of the lobbyists for one of the pharmacies said to us that it would be really important to them that they had really clear and unambiguous guidelines as to how to get these medications into the hands of the certified professional midwives. The Majority Report says we want them to have access to the medications and in order to do that we want to make sure they are licensed so that we can track what's happening. The other report simply says they have the medications by virtue of their credentials and they don't need to be licensed. I think that is as clear as I can say it. I know one of the sheets that you have erroneously describes their training. Basically the certified professional midwife credential requires very specific and rigorous education and I think there is a grandparenting piece of this credential that has let two certified professional midwives be grandparented in so that this piece of paper that you have that shows that they don't have to have education is incorrect. Thank you for your attention and I hope you will support the pending motion.

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

Senator **COURTNEY**: Thank you, Madame President, men and women of the Senate. I made a promise to the President tonight that we wouldn't discuss this too long and I hope you will all join me. As a matter of fact I hope you will all join me in not talking too much for the rest of the night. I think we all pretty much know how we're going to vote on this. I just want to make a real quick point. The reason I oppose the Majority Report, and the good Senator from Cumberland, Senator Bromley, outlined the differences very clearly, is that, in my opinion, if we pass the Majority Report the State basically sanctions that they are endorsing that this is a safe practice and that there is proper oversight. With that I'll sit down and I think everybody knows how they are going to vote. Thank you, Madame President.

On motion by Senator **MARTIN** of Aroostook, **TABLED** until Later in Today's Session, pending the motion by Senator **SCHNEIDER** of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-935)** Report, in concurrence. (Roll Call Ordered)

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

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Clarify the Laws on Licensing for Charitable and Fraternal Organizations and Games of Chance"

H.P. 1597 L.D. 2236

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-961)** (8 members)

Minority - **Ought To Pass as Amended by Committee Amendment "B" (H-962)** (5 members)

Tabled - April 10, 2008, by Senator **MARRACHÉ** of Kennebec

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-962)** Report, in concurrence

(In House, April 9, 2008, the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-962)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-962).**)

(In Senate, April 10, 2008, Reports **READ**.)

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

Senator **MARRACHÉ**: Thank you, Madame President and men and women of the Senate. I moved the Minority Report even though I'm not on it, if you look at the sheet in front of you. It's because this has been a very contentious bill within our committee. We went around and around. We thought that the bill with Committee Amendment "A" was going to solve the problem. Apparently it does not. The Minority Report has with it the ability for non-profits to pay \$35 and they then can have a way of raising

money up to \$10,000 whether it be a poker run, cribbage game, or whatever they need to do to try to raise money for their organization. If you go with the Majority Report it's a lot harder. The Minority Report makes it easier for these organizations to raise money. The money they raise usually stays right in the communities that they reside in and it allows them to not be busted by the police, like we saw recently in the cribbage games, and allows them to raise the money for the goodwill that they provide for their communities. I hope that you will support me and the Minority Report. Thank you.

On motion by Senator **MARRACHÉ** of Kennebec, the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-962)** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "B" (H-962) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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

An Act To Protect Children from Hazardous Lead-based Paint
H.P. 1584 L.D. 2218
(C "A" H-921)

Tabled - April 10, 2008, by Senator **MARTIN** of Aroostook

Pending - **ENACTMENT**, in concurrence (Roll Call Requested)

(In Senate, April 7, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-921)**, in concurrence.)

(In House, April 10, 2008, **PASSED TO BE ENACTED**.)

On motion by Senator **WESTON** of Waldo, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#420)

YEAS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HASTINGS, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: None

35 Senators having voted in the affirmative and no Senator having voted in the negative, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

An Act To Ensure That Children's Toys and Products Are Free of Lead

H.P. 1437 L.D. 2053
(H "A" H-955 to C "A" H-930)

Tabled - April 10, 2008, by Senator **WESTON** of Waldo
Pending - **ENACTMENT**, in concurrence (Roll Call Ordered)

(In Senate, April 8, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-930) AS AMENDED BY HOUSE AMENDMENT "A" (H-955)** thereto, in concurrence.)

(In House, April 10, 2008, **PASSED TO BE ENACTED**.)

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#421)

YEAS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HASTINGS, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: None

35 Senators having voted in the affirmative and no Senator having voted in the negative, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

Resolve, To Establish a Moratorium on Development in Saco Bay
H.P. 1558 L.D. 2188
(C "A" H-896)

Tabled - April 10, 2008, by Senator **WESTON** of Waldo

Pending - **FINAL PASSAGE**, in concurrence.

(In Senate, April 7, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-896)**, in concurrence.)

(In House, April 10, 2008, **FINALLY PASSED**.)

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Benoit.

Senator **BENOIT:** Thank you, Madame President. I'll make this as quick as I can so we don't prolong this. I just needed to add something here before we have enactment on this. This bill is about Spartan Bay. It's a marina development proposed for an off shore parcel on Saco property. There have been no hearings and no public debate in the town of Old Orchard Beach and therefore no official position on this proposed project at this time. A workshop is scheduled for April 25th. In the event the town of Old Orchard Beach opposes this development it would constitute an instant moratorium. The project will encompass a multi-use marina for large ships, tourism oriented cruise attractions, and resident and recreational boaters alike. Restaurant and retail opportunities will be part of the mix. Besides making the towns more attractive to visitors and enhancing tourism, the proposed marina will create new and meaningful employment in maritime and hospitality sectors and will also support local law enforcement safety vessels, environmental protection, and fisheries.

THE PRESIDENT: I'm just asking if this is germane to the bill.

Senator **BENOIT:** Thank you, Madame President. It is because I am going to ask for the moratorium to be lifted and that's what this is going to do. It's going to set a moratorium in place. I just feel that I need to give a brief explanation of why I'm going to do that. Am I doing this the wrong way?

THE PRESIDENT: The bill is to establish a moratorium and you are in opposition to that? Then I think that is how you want to state it so people understand what's before us.

Senator **BENOIT:** Thank you, Madame President. I'm sorry. That is what I am opposed to and I was just trying to give a brief history in case someone did not understand why I was. The moratorium in L.D. 2188 does not serve the public interest of the two communities. Saco was in favor of the project and Old Orchard Beach has not had time to express its opinion as of today. This moratorium needlessly prevents individuals from exploring the possibilities of developing a project that will enhance the attractiveness of these communities, create new jobs, and generate state and local revenues. L.D. 2188 will be the first moratorium ever passed in the history of the state and I ask that you vote against the moratorium and allow the local, state and federal agencies to review this plan like any other. This legislation, if passed, compromises the future growth of both communities without their consent. At a time when we are trying to create an atmosphere of economic development we should not be flexing our legislative muscles by adding additional red tape and waiting periods on proposed projects. I would ask that you join me in voting against this enactment. Thank you.

On motion by Senator **BENOIT** of Sagadahoc, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **SCHNEIDER:** Thank you, Madame President, men and women of the Senate. I want to be very brief. I don't want to belabor this. I just wanted to focus in on the piece of legislation and how we got to this point. Very briefly, Old Orchard Beach originally came forward with a bill that had to do with boundaries. They wanted to change boundaries as a major reaction to a proposed development. The City of Saco had given some authority or lease to an individual to develop a 300 acre site out in submerged lands, way out in the bay. The committee worked this bill and sent the communities of Saco and Old Orchard Beach off to work on a proposal. They have had a very good relationship for many years, working collaboratively. I saw this as having the potential of creating a rift that really wouldn't benefit either community in any way. We sent them off and said for them to work this thing out and come back to us with a proposal. The proposal was to set a moratorium down as sort of a cooling off period. I believe it is 18 months that we set down. In the process the Attorney General was asked for an opinion on whether or not the City of Saco even had the authority to lease this submerged land, which it does not have the ability to do. I just want to give you an analogy. It would be as if I said to you that I would like to lease to you the Eiffel Tower and all my interests in that. Now you can go right ahead and lease that piece of property but what do you really have? I don't have the authority to lease that piece of property and neither does the City of Saco. This bill was a bill that definitely came forward by the communities. It was hashed out by the communities. We listened to those communities and they asked for us for this moratorium, Saco and Old Orchard and their public officials. That's how we came to this agreement. I think it's a good agreement. The submerged lands, the State has the authority over. On top of that, they would have to go through a process of having the Army Corps of Engineers for something like this and likely the DEP and certainly the Department of Conservation. Eighteen months is a very small amount of time for a moratorium. It's not going to prevent anything from going through because that timeframe is so small in a development of this kind. I urge your support for the pending motion.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Benoit.

Senator **BENOIT:** Thank you, Madame President. I guess I just need to say that there are a select few in Old Orchard Beach who have been supportive of this and they are speaking on behalf of a community that has not had a public meeting yet. I think that for us to step in at this point, I am not comfortable doing that. I don't want my name attached to the moratorium, which is why I'm glad to be able to have a vote on this. I do think that it would be fair to allow them to have their public hearing on the 25th and let them sort that out. I believe that with all they will have to go through in order to complete this project it could go on longer than the moratorium is going to be for or it could be done quicker than that and they wouldn't have to come back. Thank you.

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

Senator **HOBBS:** Thank you, Madame President, men and women of the Senate. I appreciate the explanation that was given by the Senator from Penobscot, Senator Schneider, with respect to the actions of the State and Local Government Committee. I have to tell you that they worked awfully hard in trying to work with a very emotional issue involving two communities. Ironically at one point the City of Saco's boundaries included the town of Old Orchard Beach. When the communities separated 125 years ago an unusual thing happened. The City of Saco maintained the Saco Bay area as their boundary. That effectively has changed a few times in the past 125 years. Picture this, if you have ever gone to the Old Orchard Beach pier, and many of you probably have in your day gone down there to have some pier french-fries or pizza or a walk on the pier. It is a special place that obviously has a lot of nostalgia. At one point in Saco and Old Orchard's history the end of the pier was within the municipality of Saco. This was very interesting because the end of the pier was maintained by the Saco Police Department. Fortunately, that all changed. The last change of the boundary took place because of the refinancing of the Old Orchard Beach pier after a catastrophic storm that occurred, I believe, in 1978.

What's occurred is that the City of Saco last August and last July entered into negotiations with a development company called Spartan Bay Marina. During that discussion with the Mayor of the City of Saco at that time, who is not the Mayor now, and the City Council then, but not the City Council now, they entered into an agreement to essentially option 300 and some odd acres of land which is included in the submerged lands in Saco Bay. From the start it was my opinion that submerged lands are State lands and not local municipal lands and therefore the City of Saco did not have the authority to enter into any type of lease agreement. I know that I'm looking at the good Senator from Oxford, Senator Hastings, who serves with me on the Judiciary Committee. There is an old expression that you learn in law school the first year of taking Property 101. That is you can't lease what you don't own. That was the case in this particular situation. The City of Saco entered into an option agreement and entered into a 99 year lease of submerged lands. Many of you recall the bill that was submitted by the City of Portland to extend the submerged lands lease period from 30 years, which is the state submerged land law now, to what I believe was 75 or 99 years. In this particular case the City of Saco, for whatever reason and again I think with good intentions but maybe not with the correct legal interpretation, entered into an agreement whereby there was a possibility of option on this property for 99 years. This potential proposed marina would be located 1,000 feet off the shore in Old Orchard Beach. The proposal was for approximately 200 moorings for boats at a facility that would be out in the bay, 1,000 feet from the shore. Many of you who have been to Old Orchard Beach will know that that's a little bit past, about 300 feet, the existing pier.

This was a very contentious issue. The City of Saco apparently did not give the requisite notice to the Town of Old Orchard Beach about these negotiations. The Town of Old Orchard Beach, rightfully so, represented that they did know about this, that this effected their environmental and economic wellbeing, and basically came to the legislature with a bill sponsored by the Representative Hogan which would change the boundary of Saco to make it Old Orchard. All of Saco Bay would

no longer be in Saco, it would be in Old Orchard. Obviously, there were a few concerns from the City of Saco about that issue. There were a lot of concerns from the Town of Old Orchard Beach. What occurred, at the insistence of the State and Local Government Committee, which I really respect, is that they basically told the two towns, the Hatfields and the McCoys, that they wanted them both to get together in three or four days and iron out their differences. They were in the process of school consolidation, of incorporating Old Orchard Beach and Saco's school systems along with Dayton. I think the committee and its Chairs put the fear of God into the two communities. After a lengthy negotiation on a Saturday during a blizzard and on a Monday before the work session, the City of Saco and the Town of Old Orchard Beach reached an agreement. During the negotiations of that particular agreement the town chair of Old Orchard Beach and representatives of Old Orchard Beach, who had the authority to negotiate, and the Mayor of the City of Saco, the city administrator of the City of Saco, and the former Mayor of the City of Saco were part of those discussions. The former Mayor was not part of the negotiations but was there to offer any input. The towns agreed that there should be a cooling off period of 18 months. At first it was going to be 2 years but at the insistence of some members of the committee in order to get some consensus it became 18 months.

The bill before you is not a bill, it's a Resolve. It imposes the moratorium, but more importantly than the moratorium, it keeps the lines of communications open in order to try to resolve this issue. What this resolve does, which is the second part of the Resolve, is establishes a working group of the Town of Old Orchard Beach and the City of Saco. The City of Saco residents and Town of Old Orchard Beach residents will have representatives that will convene a working group to examine municipal boundaries, regulatory jurisdictions, and parameters for the future development of Saco Bay. If this particular group is convened, and it obviously leaves it to the communities and has no mandate from the state, the legislature would assist with the Director of the State Planning Office within the Executive Department or the Director's designee. The Department of Marine Resources, the Department of Conservation, the Bureau of Public Parks and Lands, and any other departments would be available for consideration. Also this Resolve includes the Town of Scarborough, who is extremely concerned about this boundary issue. In fact, Representative Pendleton and Representative McDonough both appeared in favor of Old Orchard Beach's right to change their boundaries, which was the original bill. As you can see, this is very contentious. In the 18 years that I have served in the legislature I have never seen an issue that was so divisive. It was kind of a joke, what's Barry Hobbins going to do? Is he going to side with the City of Saco? Is he going to side in with Old Orchard? They were a little surprised when I went to the State and Local Government Committee and I chastised and was critical, in a very constructive way, of the City of Saco's handling of this particular issue. What I basically urged everyone to do was to let the parties get together and work things out. We were one 125 years ago and, believe it or not, we have a lot of things in common. What I didn't want to do was destroy that commonality of purpose between Saco and Old Orchard. The purpose of this Resolve is to impose a moratorium for a cooling off period. It's urging the City of Saco, the Town of Old Orchard Beach, the City of Biddeford, and the Town of Scarborough to get together and attempt to put together a land use plan, which is missing right now, for Saco Bay. Saco Bay is a jewel. If you've ever been

there and looked at it, you know it is a wonderful place. Whether or not this particular proposal will be adopted is beyond the scope of this discussion. The developer, obviously, will not have an agreement with the City of Saco because, as I said before, you can't lease what you don't own. The City of Saco and the Town of Old Orchard Beach are going to have to work together with the developer, if that's what happens, and the State of Maine, because the State of Maine is the only one that can lease property and they can only do it under Maine law for 30 years. Not 99 years.

There is one other issue, which I'm not trying to throw red herrings, but I want you to know that the original agreement between the towns also included, and the good Senator from Portland will like this, the ability and the manner for Saco to share in gambling proceeds from off-shore gambling junkets via bigger boats. That was part of the original proposal. It was taken out by the City of Saco and was not included in the final passage. That was potentially the effect of that particular situation when it first came before the City of Saco. I really urge you to let the communities work this out. This is the mechanism to do that. If the developer is successful, the more power to that developer. I have no ill feelings towards him or towards the group or whoever the investors are. It's really imperative that we act prudently to protect and make sure that Saco Bay, from Prouts Neck to the Saco River, be protected. Thank you.

THE PRESIDENT: The pending question before the Senate is Final Passage. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#422)

YEAS: Senators: BARTLETT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, HASTINGS, HOBBS, MARRACHE, MARTIN, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, SMITH, STRIMLING, SULLIVAN, TURNER, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: BENOIT, GOOLEY, MCCORMICK, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SHERMAN, SNOWE-MELLO, WESTON

23 Senators having voted in the affirmative and 12 Senators having voted in the negative, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

Emergency Resolve

Resolve, Regarding Legislative Review of Chapter 61: State Board of Education Rules for Major Capital School Construction Projects, a Major Substantive Rule of the Department of Education and the State Board of Education

H.P. 1503 L.D. 2123
(C "B" H-869)

Tabled - April 10, 2008, by Senator **BOWMAN** of York

Pending - **FINAL PASSAGE**, in **NON-CONCURRENCE**

(In Senate, April 7, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-869).**)

(In House, April 10, 2008, **FAILED FINAL PASSAGE.**)

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Raye.

Senator **RAYE:** Thank you, Madame President. I wish to pose a question through the Chair.

THE PRESIDENT: The Senator may pose his question.

Senator **RAYE:** Thank you, Madame President. I just want to be certain that I understand the posture that we will be in with the passage of this Resolve. I pose the question, if one is opposed to the 10 point penalty should one support passage or oppose passage?

THE PRESIDENT: The Senator from Washington, Senator Raye poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President and members of the Senate. This is a review of a major substantive rule that came from the department. If we kill this then the original rule as proposed is implemented. The only way to make changes to the rule was the result of Committee Amendment "B", which was adopted. If you don't want what the original rule called for my suggestion is that you vote for emergency passage.

This being an Emergency Measure and having received the affirmative vote of 35 Members of the Senate, with no Senators having voted in the negative, and 35 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and signed by the President, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act Regarding Lobbyist Disclosure"

S.P. 481 L.D. 1393
(C "A" S-479)

In Senate, March 26, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-479).**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-479) AS AMENDED BY HOUSE AMENDMENT "A" (H-968)** thereto, in **NON-CONCURRENCE.**

On motion by Senator **MARRACHÉ** of Kennebec, the Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-479).**

On further motion by same Senator, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE.**

Sent down for concurrence.

Non-Concurrent Matter

Bill "An Act To Allow Road Associations To Determine Assessments According to Majority Vote Cast at a Duly Held Meeting"

H.P. 1488 L.D. 2102
(S "B" S-560 to C "A" H-818)

In House, April 1, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-818) AS AMENDED BY SENATE AMENDMENT "A" (S-531)** thereto.

In Senate, April 7, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-818) AS AMENDED BY SENATE AMENDMENT "B" (S-560)** thereto, in **NON-CONCURRENCE.**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-818) AS AMENDED BY HOUSE AMENDMENT "A" (H-976) AND SENATE AMENDMENT "B" (S-560)** thereto, in **NON-CONCURRENCE.**

On motion by Senator **DAMON** of Hancock, the Senate **RECEDED** and **CONCURRED.**

Non-Concurrent Matter

Bill "An Act To Amend Certain Laws Related to Environmental Protection"

S.P. 809 L.D. 2119
(C "A" S-482)

In Senate, March 26, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-482).**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-482) AS AMENDED BY HOUSE AMENDMENT "A" (H-987)** thereto, in **NON-CONCURRENCE.**

On motion by Senator **MARTIN** of Aroostook, the Senate **RECEDED** and **CONCURRED.**

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (4/8/08) Assigned matter:

SENATE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Allow Direct-to-consumer Wine Sales"

S.P. 781 L.D. 1987

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-575)** (5 members)

Tabled - April 8, 2008, by Senator **MARRACHÉ** of Kennebec

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report

(In Senate, April 8, 2008, Reports **READ.**)

On motion by Senator **BROMLEY** of Cumberland, **TABLED** until Later in Today's Session, pending the motion by Senator **MARRACHÉ** of Kennebec to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

Senate at Ease.

Senate called to order by the President.

The Chair laid before the Senate the following Tabled and Later (4/8/08) Assigned matter:

HOUSE REPORTS -from the Committee on **TRANSPORTATION** on Bill "An Act To Amend the Axle Weight Laws for Trucks Transporting Unprocessed Agricultural Products and Forest Products" (EMERGENCY)

H.P. 1576 L.D. 2209

Report "A" - **Ought Not to Pass** (6 members)

Report "B" - **Ought to Pass as Amended by Committee Amendment "A" (H-871)** (5 members)

Report "C" - **Ought to Pass as Amended by Committee Amendment "B" (H-872)** (2 members)

Tabled - April 8, 2008, by Senator **MARTIN** of Aroostook

Pending - motion by Senator **DAMON** of Hancock to **INSIST**

(In House, April 4, 2008, Report "**C**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-872) READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-872) AS AMENDED BY HOUSE AMENDMENT "A" (H-888)**, thereto)

(In Senate, April 7, 2008, Reports **READ**. Report "**A**", **OUGHT NOT TO PASS ACCEPTED**, in **NON-CONCURRENCE**.)

(In House, April 8, 2008, that Body **INSISTED**.)

(In Senate, April 8, 2008, motion by Senator **MARTIN** of Aroostook to **RECEDE** and **CONCUR FAILED**.)

On motion by Senator **MARTIN** of Aroostook, the Senate **RECEDED** and **CONCURRED**.

The Chair laid before the Senate the following Tabled and Later (4/8/08) Assigned matter:

HOUSE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Protect Consumers' Gift Card Interests"
H.P. 1551 L.D. 2181

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-940)** (7 members)

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

Tabled - April 8, 2008, by Senator **HOBBS** of York

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence

(In House, April 8, 2008, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-940)**.)

(In Senate, April 8, 2008, Reports **READ**.)

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

READ ONCE.

Committee Amendment "A" (H-940) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

The Chair laid before the Senate the following Tabled and Later (4/8/08) Assigned matter:

HOUSE REPORT - from the Committee on **MARINE RESOURCES**, on Bill "An Act To Amend Maine's Scallop Laws"
H.P. 1455 L.D. 2071

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-863)**

Tabled - April 8, 2008, by Senator **MARTIN** of Aroostook

Pending - motion by same Senator to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE**

(In House, April 1, 2008, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-863) AND HOUSE AMENDMENT "A" (H-889)**.)

(In Senate, April 8, 2008, Report **READ**. Report **FAILED ACCEPTANCE**, in **NON-CONCURRENCE**.)

Senator **MARTIN** of Aroostook requested and received leave of the Senate to withdraw his motion to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE**.

On further motion by same Senator, Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-863) **READ**.

On motion by Senator **DAMON** of Hancock, Senate Amendment "B" (S-597) to Committee Amendment "A" (H-863) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Damon.

Senator **DAMON:** Thank you, Madame President, men and women of the Senate. This bill, dealing with scallop fisheries in Maine, is a seemingly innocuous bill but actually is quite important. Scallop fisheries in Maine, except for one area way Downeast in the Cobscook Bay, is in virtual collapse. It has been for some time. It hasn't been such a big deal because the lobster fishery has been carrying the weight. Those fishermen have not had to go scalloping in the winter to supplement their income because lobstering has been so good. As the lobster cycles changed somewhat, and there is an opportunity and a need to supplement income, fishermen have to do what fishermen have done for generations in Maine and that is fish for different species year round. In the fall and the summer perhaps fish for lobsters and in the winter go shrimping or scalloping and maybe some groundfishing if they can get access to that. This particular bill, which was fashioned in the committee on the fly, has a lot of flaws in it. Those flaws were identified and rightly so. Two of the most onerous ones dealt with limiting the size of the gear that could be towed to drag for scallops and also to limit the number of licenses that would be sold to be able to have a boat fish for scallops. This amendment eliminates that gear size restriction. Keeps it as it is presently. It also changes the window during which a person could get a license if they didn't presently hold a license. The

current bill says from 2005 to March 3, 2008. That means if you don't have a scallop license you won't get one. This amendment moves that date from March 3, 2008 to May 1, 2008. You can expect, if we can pass this bill, that there will be a flurry of activity and phone calls coming into the Department of Marine Resources so that people who traditionally have fished for scallops but who have decided not to because they haven't needed to now will get a license. I believe that will make those people, the fishermen who might have been calling you, happy. It's not the end of what we need to do for scallops but the members of the committee that heard this bill have sincere hope that the Scallop Advisory Council will put further work in on this particular issue and bring forth to 124th Legislature a comprehensive, well thought out plan to preserve, protect, promote, and enhance the scallop fishery in Maine. Thank you, Madame President.

On further motion by same Senator, Senate Amendment "B" (S-597) to Committee Amendment "A" (H-863) **ADOPTED**.

Committee Amendment "A" (H-863) as Amended by Senate Amendment "B" (S-597) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

House Amendment "A" (H-889) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-863) AS AMENDED BY SENATE AMENDMENT "B" (S-597) thereto, AND HOUSE AMENDMENT "A" (H-889)**, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (4/9/08) Assigned matter:

HOUSE REPORTS - from the Committee on **TAXATION** on Resolve, Authorizing the State Tax Assessor To Sell 2 Certain Parcels of Land in the Unorganized Territory
H.P. 1583 L.D. 2217

Majority - **Ought Not to Pass** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-946)** (4 members)

Tabled - April 9, 2008, by Senator **PERRY** of Penobscot

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**

(In House, April 8, 2008, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, April 9, 2008, Reports **READ**.)

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

Senator **PERRY:** Thank you, Madame President, ladies and gentlemen of the Senate. I wanted to take a few minutes to tell you about this bill we're about to vote on. It is a resolve to authorize the tax assessor to sell two certain parcels of land in the Unorganized Territory. I want to tell you a little bit about the Unorganized Territory because I don't think we deal with it a lot up here on the floor of the Senate. The Taxation Committee actually serves as the select board for the Unorganized Territory, which is treated much like one big municipality. As the Chair of the Taxation Committee, I feel much like the Mayor of the Unorganized Territory. I want to tell you a bit about what we do on the Taxation Committee in reference to the Unorganized Territory. Every year the department brings forward to us a bill that is a list of tax-acquired property that the State acquires for unpaid property taxes in the Unorganized Territory. Every year it is a list of the folks whose property has been tax-acquired. Usually they can track these people down and the bill authorizes us to sell the property back to the owners for the past due taxes plus costs incurred. Usually it might be \$50 or \$60 in taxes. It might be a few hundred. It might be several hundred. It is seldom into the thousands. Typically they find the folks, they buy the land back, and it is settled. In this case there are two families who lost property that was tax-acquired by the State from the Unorganized Territory. In both cases the reason was that there was a death of the owner of that property and the State could not find the heirs in time to notify them that it was tax-acquired and they had the opportunity to buy this property back. After the time expired the State was able to find these people, however it was already scheduled to go to auction and the State really didn't have the authority to do much about it. This bill simply says after the deadline we want to sell the property back to these two families, the heirs of the two deceased parties, for the price they would have paid had the State been able to locate them in a more timely fashion. It's complicated, somewhat. The property went to auction.

One family had a lawyer who advised them to bid on the property. They bid \$7,500 on it and they were the high bidder. If we do nothing, they can at least acquire the property of their deceased son for \$7,500. The other fella didn't have the luxury of a lawyer and he's on the verge of losing \$30,000 worth of equity in this land for a tax bill of around \$700.

There are a number of reasons I supported selling this property back to the rightful owners. If you look at my community, the city of Bangor, we don't take tax-acquired property. It happens all the time automatically. We don't remove people from their home and evict them. We've done it a couple of times and the reason was that the property they acquired was not safe to live in. The city acquired it, tore it down, and helped the folks get into city housing or some other arrangement. We don't do that in Bangor. We find ways to keep people in their homes and work it out. I represent the people of Bangor. That's how we do it. Certainly that is how I think we ought to be doing it here in these two cases. If some things had gone different in the process I would be on the position that we need to sell these. Let me tell you, the one family that was the high bidder who wants to purchase the piece of property was notified at the time. They were told they were the high bidder but there was some legislation pending and this wasn't quite as clear and we could not sell it to them. They were notified at the time that they were the high bidder that we weren't sure if we could sell it. Had that been different I would be in a different position. If we were more

like a select board where we could meet on a weekly basis and decide if it was proper to go forward with the auction and we decided to go forward with it, I would be in a different position. We weren't allowed to meet. We didn't meet. The State did not have the authority. The auction went forward. In Bangor, and in many communities, it is automatic. They acquire the property automatically but it does require further action of the council to go ahead and sell it.

The third thing that maybe would have changed my mind is that if this was like a typical bank foreclosure and it was sold at auction the party who lost their property would get the surplus equity back. When you are talking about municipalities, we keep it. We've had bills year in and year out to say it's not right that municipalities can keep people's equity. For some reason, year in and year out, we don't pass it and the municipalities keep people's equity. That is what will happen in this case. One family will be out \$30,000 of equity in a piece of land. I suppose everyone else in that Unorganized Territory's mil rate might go down a penny because of this person's loss. I'm not for that. I believe the right thing to do is to allow this property to be sold back to the original owner's estate for the original price that they would have paid had we notified them in time. Thank you.

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

Senator **NASS:** Thank you, Madame President, ladies and gentlemen of the Senate. Obviously from the report, I'm on the other side of this. This is a 9 - 4 report with the majority suggesting it Ought Not to Pass. We have a fairly elaborate and long foreclosure process for all real property in this state, including the property in the Unorganized Territory. That process was followed. It's followed every year on a fairly limited number of parcels in the Unorganized Territory as the Senate Chair described. It's rare that two of these things fly back at us. For these folks, you have to understand this is not something they should have been surprised at. This went on for several years. These two properties, I think, were on a bill that went through this Body several years ago and the process has been carried out in the normal sense of the word. I don't think it would be proper to characterize the State of Maine and those people who administer the Unorganized Territories as being interested in taking property from people. In fact quite the opposite is true. I think what is important here is that everybody gets the same chance to redeem their property and the process is consistent. When somebody, for whatever the reason, chooses not to do that, because they had plenty of chances to do that, I think it's a mistake to suggest to all of the folks in the state of Maine, who may be bidding on these things and did in this case, that the process is not going to be followed. That's what is in front of us today.

There are two pieces of property here. At the risk of getting into too much of the details, let me show what happened in one case. We had a gentleman who showed up who actually has a claim on this property because he married a woman three weeks before she died. The woman owned the property. There is no proof as to whether he was aware of the property. We're not even sure whether he has a claim or whether she has an estate. There is nothing. It is just hanging there. This property came up for foreclosure. The State's interest was several hundred dollars. At some point this went up for foreclosure and there were people from a different area of the state that bid over \$30,000. This is where the \$30,000 comes from. The folks were there at the

committee hearing. They felt they had a claim at that level. It was held up just before they took ownership of it.

I think what's important here is that we need to maintain our property tax system, our system of collecting property taxes. The system is set up to be very much in favor of the tax collector, otherwise we would not be motivated, individually and collectively, to pay our property taxes. Anytime you interrupt that system by suggesting there is a way around it you put at great jeopardy our ability to collect this money, pay our bills, and do all of the things we do in state government. I would urge, Madame President, that you vote against the Ought Not to Pass, support the majority of the committee, and let's uphold our property tax system, which we all are very dependent upon. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Gooley.

Senator **GOOLEY:** Thank you, Madame President, men and women of the Senate. I think this does have some merit because apparently this has not been an issue that has been really addressed in either Body over time. Every year, as has been said, properties do get foreclosed on and they are put back on the market. I don't see the process as being 100% consistent. In January I received this call from this individual who lives in Massachusetts. He had a compelling case. This is the property in Madrid. The other property is in Albany. Both are in the Unorganized Territory. The piece in Albany, the individual who owned it committed suicide. The family never followed up on payment of the taxes. In the case in Madrid, which I represent, the land was in the name of Mary Jackson and she passed away in 2003. After that the bill was sent to Mary Jackson in Massachusetts and there was nothing returned. Yes, this individual who got the mail on this was married to this Mary Jackson. They were married in the hospital. Three weeks later she passed away. They had quite a discussion in the other Body on this. It was kind of an emotional experience, I think, for some people. As I said, there was a death involved in the other piece.

It gets down to the bids. The bids were opened February 20th. There were 120 bidders on the piece in Madrid. The high bidder was \$31,000. The highest bid was on hold pending the outcome of this particular legislation. I'd like to say here, let's face it, the law affords forfeiture and common tax practice is to give delinquent tax payers, or his or her successor, a fair and full opportunity to retain property. It hasn't happened here. It does seem fair to say that circumstances are not always as they seem. Once in a while special exceptions are needed. I hope you will support the amended report.

This L.D. is, in part, about an out-of-state individual. You could say it's about tourism. An out-of-state individual coming into the state and spending money. Folks coming to Maine. I see this legislation as the right thing to do considering the circumstances. It is unfortunate the bids were opened on these two properties before the legislation was resolved. Now the high bidders, having been informed, are waiting and they aren't happy campers. The way I see it, this should not have happened.

Lastly, I would say that if a person doesn't understand the system, which my person from Massachusetts really didn't because he came from Portugal and he didn't really understand what was happening, and can't afford to hire a professional there is a good possibility to lose something of value. On the opposite side of the coin, there were people that worked for Enron. The

officers in Enron who understood the system only too well. That's the opposite side. I would recommend passing this. Thank you.

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

Senator **MILLS:** Thank you, Madame President. I hesitate to add anything further. The unfortunate source of confusion in this bill is that there are two parcels and two completely different narratives that were explained and narrated at length to the Taxation Committee. I have to say that the party for whom the good Senator from Franklin, Senator Gooley, is advocating lost 13 - 0 in that committee. The report that is being offered by the Chair is for one of those parcels only, in the Minority Report, which is the parcel from Albany. I'll address the Madrid parcel later because it's really not even before us. I'm hoping that it doesn't get there, Madame President. I'm going to invite the Chamber to recognize that if it's true that the Taxation Committee serves as sort of a town council for the world's largest municipality, of 10 million acres, that the Chair of that town council should abide by the vote of 9 - 4 and give this bill its proper disposition of Ought Not to Pass that the majority voted for in its wisdom and after having heard these sad stories. We have committees who are supposed to hear these anecdotes and pass judgment on them. I wasn't there to hear them but I've heard some of it second hand. I'm one of those people who listens and respects deeply the work of the committee in sorting through all of this. I think that at this late hour we should honor that work. I would ask for a division and ask you to follow a red light on the pending motion.

Senator **MILLS** of Somerset requested a Division.

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

Senator **BRYANT:** Thank you, Madame President, ladies and gentlemen of the Senate. Not to prolong the debate but I think that the committee did look at these two pieces and they are different. Some found, especially in the one case in Albany, that there is a major difference. In fact, where the person's son had committed suicide and it got tied up in a legal debate, they didn't know that the property was being taken until they had to go through all the pieces and find it. I think in the case of the Minority Report that is moved here, I would urge you to pass it. I think it's a good decision by some members of the committee. You don't get all the votes all the time, but I'd encourage you to vote green.

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

Senator **PERRY:** Thank you, Madame President. I'm just going to speak very briefly. I did not talk about the difference between the two parcels because I do intend to support the amendment when it's passed. The report we'll be voting on does not address the fellow from Massachusetts. It says we should simply sell the property back to the one family, the family whose son committed suicide, whose property was next to his brother's and who has a shed on that property where all his stuff, including any notices that may have come from the State, are stored. I've got a note that shows the mother lent the boy \$7,500 to purchase the property and now she's faced with spending another \$7,500 to

purchase it back from the State. Those proceeds will be spread around amongst the Unorganized Territory in that county and every homeowner there will benefit five or ten cents and the family will be put through this again. At the very least, I think we ought to pass this report and we can discuss the amendment later.

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

Senator **NASS:** Thank you, Madame President, ladies and gentlemen of the Senate. The details of these two stories are sad. There is no doubt about it. Nobody likes to think about a child committing suicide. This family, with professional help, became aware of this tax deficiency and they actually bid on the property. The process is followed. They were deficient and not knowing about it. They caught up with it. They bid on the property. They were the high bidder. We've heard this already once tonight, but people are aware of these things. There were upwards of 100 to 150 people bidding on each of these parcels. What they are asking you to do is to sell it to them for the lower price of about \$600 or \$700 as opposed to what they bid, \$7,000. The process was followed. The story is sad. I think they are in the proper place. They indicated a willingness and ability to pay after the foreclosure process went through. It's about \$7,000. We should follow through with that. Thank you.

At the request of Senator **MILLS** of Somerset a Division was had. 28 Senators having voted in the affirmative and 7 Senators having voted in the negative, the motion by Senator **PERRY** of Penobscot to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE, PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-946) **READ**.

On motion by Senator **GOOLEY** of Franklin, Senate Amendment "A" (S-583) to Committee Amendment "A" (H-946) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Gooley.

Senator **GOOLEY:** Thank you, Madame President. The only thing this does is adds the Madrid property back into the L.D. and it also states that if we pass this it will go to the estate.

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

Senator **PERRY:** Thank you, Madame President. I'd like to stand and speak in favor of this amendment. I am on the report that we just passed that separated the two. We had three reports and one member of the committee worked on trying to find a solution to separate the two. I agreed not to go with a third report but I really don't think that was the right decision. The cases are somewhat different in that the case that the Senator from Franklin, Senator Gooley, wants to add the property back in does have an outside party that was the high bidder at \$31,000 on this property. I would stick with that if any one of these things were different and if we, as a committee, could have had the authority to put that sale on hold. The State of Maine did not have that

authority. I'm not sure they wanted to go ahead and bid this way. They didn't have a choice. It's not like a regular municipality where they have weekly meetings. I'm sure that would have been the case. The folks who were the high bidder had been told at the auction that they were the high bidder but we were not sure we could sell the property. They were under no illusion at the time they were told. It might be different if the estate of this family would get the equity back, just as they would if it were a bank loan, instead of having it spread throughout the community to people who aren't looking for it that might make a nickel or dime difference on any other resident's bill, but they will take that equity away from this one family. There was talk of this gentleman marrying this woman three weeks before she died. I don't know how long they were together but there were plenty of pictures of them on the property. They did get married before she died. If he was in the marriage for the property I think he would have taken better care of the taxes. There were only a few hundred dollars. In fact, what he told us was that after she passed away and he moved he did not forward her mail. It did not occur to him to forward her mail. We found him and the price we want to sell it back to him for under this amendment is the same price they would have paid had we just been able to find him sooner. It's not just him. He married the woman but there also is a young son involved who is part of the estate. I don't know where the proceeds will go. I think it belongs with that estate. I would encourage my colleagues to support this amendment.

On motion by Senator **MILLS** of Somerset, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **MILLS:** Thank you, Madame President. I have to agree that there are occasions when this legislature ought to be possibly entertaining these lengthy stories and maybe give some consideration to a case of unusual hardship. It seems to me that the normal role and the normal process ought to be that when the State goes through all of the efforts that it goes through to try to reach people, to warn people, to send them mail, to call them, to locate them, and to try to collect these tax moneys over a period of years and when someone obviously knows that he or she has an interest in real estate in Maine, after all we've heard the story that he married the owner of the real estate not long before she died, and then ignores his duties of ownership for a lengthy period of time and lets the entire thing go into default. When State officials go to all the trouble that they went through, we get to a point where we have an auction and Maine citizens gather and make bids at a formal auction proceeding, and they are actually awarded a certificate of being the high bidder but to have to wait for a year or two while we go through some process in the legislature. We just can't be in the business of doing that. There were two stories that were told. Two narratives. Two anecdotes. This one, at least in the formal vote of the committee, is a 13 - 0 report, or at least it was until a moment ago. I appreciate the ability of anyone to turn around a Minority Report, but 13 - 0 folks. It just seems to me that we can't be honoring every one of these requests to upset the auction procedure that the State has to follow with these properties and that is why I've asked for a roll call on this particular issue. I would ask that you vote red.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Gooley.

Senator **GOOLEY:** Thank you, Madame President. I didn't realize that I was going to be getting up and maybe debating a little bit with the Senator from Somerset, Senator Mills. Here we go. There was a unanimous Ought to Pass bill in the House a few years back that went 13 - 0. It was about dog barking. Some of us remember that. This was from Representative Cameron. I'll always remember that.

Regarding this particular legislation, there are duties of ownership. I recognize that fact as much as anybody else. We can't be in the business of every person that might want to have their property restored to them. I understand that. Representative Carter and myself discussed these two pieces of property and we really felt that there was a need to put legislation in, to put it on the table, and have a discussion about it to see where this might come out. We needed to have that discussion and we thought that these were examples of people in need. We wanted to put it before you today. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Sherman.

Senator **SHERMAN:** Thank you, Madame President. May I pose a question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **SHERMAN:** Thank you, Madame President. My question is, we talk about due diligence with the State. I'm kind of curious as to what kind of deed they offer. Is it a quick claim, warrantee, or quick claim conveyance? That might influence how I vote on this issue.

THE PRESIDENT: The Senator from Aroostook, Senator Sherman poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from York, Senator Nass.

Senator **NASS:** Thank you, Madame President. My recollection is that we were told it would be a quick claim deed for both of these properties, all of those properties.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Sherman.

Senator **SHERMAN:** Thank you, Madame President. Would the good Senator from York, Senator Nass, explain what a quick claim gives?

THE PRESIDENT: The Senator from Aroostook, Senator Sherman poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from York, Senator Nass.

Senator **NASS:** Thank you, Madame President. I think the question is what do you get with a quick claim deed? I'm no lawyer, but as I recall a quick claim deed does not guarantee title to the property but it does transfer ownership. That's my layman's understanding. Perhaps a lawyer can help out.

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

Senator **HASTINGS:** Thank you, Madame President. Now we are in my field. A quick claim deed that the tax assessor would give would be essentially what is called a release deed. It releases any interest that the State has, whatever that might be, without any guarantee that it's anything.

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

Senator **SCHNEIDER:** Thank you, Madame President, men and women of the Senate. I'm just glad that there is a place that people can come. There are processes. There is no question about it. I know that, at the municipal and State level, we have them down pat. At the same time there is an opportunity for people to come forward with legislation, especially in extenuating circumstances. I'm really proud to serve with the good Senator from Franklin, Senator Gooley, and the good Senator from Penobscot, Senator Perry, because I know they have really good hearts. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Gooley.

Senator **GOOLEY:** Thank you, Madame President. I'd just like to make one more point. This has to do with certified mail. In the deliberations on this particular issue, these taxes weren't paid for three years. We understand that. Each year the tax bills go out. Not all of the tax bills go out certified mail so that on the other end if there is nothing there I guess the tax assessor has to assume that they don't want to pay the bill. If it isn't delivered, if it's in somebody else's name, then there is the problem. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Franklin, Senator Gooley to Adopt Senate Amendment "A" (S-583) to Committee Amendment "A" (H-946). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#423)

YEAS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, DAMON, DIAMOND, GOOLEY, HASTINGS, HOBBS, MARRACHE, MARTIN, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, SMITH, SNOWE-MELLO, SULLIVAN, TURNER, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: COURTNEY, DOW, MCCORMICK, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SHERMAN, STRIMLING, WESTON

23 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion by Senator **GOOLEY** of Franklin to **ADOPT** Senate Amendment "A" (S-583) to Committee Amendment "A" (H-946), **PREVAILED**.

Committee Amendment "A" (H-946) as Amended by Senate Amendment "A" (S-583) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-946) AS AMENDED BY SENATE AMENDMENT "A" (S-583)** thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (4/9/08) Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act To Implement the Recommendations of a Task Force Convened To Evaluate and Recommend Revisions Regarding the Statutory Definition of 'Service Dog'"

H.P. 1648 L.D. 2285
(C "A" H-943)

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-943)** (11 members)

Minority - **Ought Not to Pass** (1 member)

Tabled - April 9, 2008, by Senator **STRIMLING** of Cumberland

Pending - **FURTHER CONSIDERATION**

(In House, April 7, 2008, Reports **READ**. Bill and accompanying papers **COMMITTED** to the Committee on **LABOR**.)

(In Senate, April 8, 2008, Reports **READ**. The Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-943)**, in **NON-CONCURRENCE**.)

(In House, April 9, 2008, that Body **ADHERED**.)

On motion by Senator **STRIMLING** of Cumberland, the Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-943)**, in **NON-CONCURRENCE**.

On further motion by same Senator, the Senate **RECEDED** from whereby it **ADOPTED COMMITTEE AMENDMENT "A" (H-943)**.

On further motion by same Senator, Senate Amendment "A" (S-598) to Committee Amendment "A" (H-943) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Strimling.

Senator **STRIMLING**: Thank you, Madame President. Just very briefly. This is an amendment in order to restore into the language the words around disability to include both physical and mental disability. The language was in the original bill. In some of the drafting it came out. We're putting it back in.

On further motion by same Senator, Senate Amendment "A" (S-598) to Committee Amendment "A" (H-943) **ADOPTED**.

Committee Amendment "A" (H-943) as Amended by Senate Amendment "A" (S-598) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-943) AS AMENDED BY SENATE AMENDMENT "A" (S-598) thereto, in NON-CONCURRENCE.

Ordered sent down forthwith for concurrence.

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later (4/9/08) Assigned matter:

An Act To Establish a Railroad Crossing Information Council
S.P. 847 L.D. 2199
(C "A" S-549)

Tabled - April 9, 2008, by Senator **ROTUNDO** of Androscoggin

Pending - **ENACTMENT**, in concurrence

(In Senate, April 4, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-549).**)

(In House, April 9, 2008, **PASSED TO BE ENACTED.**)

On motion by Senator **MARRACHÉ** of Kennebec, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-549).**

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-549).

On further motion by same Senator, Senate Amendment "A" (S-600) to Committee Amendment "A" (S-549) **READ**.

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

Senator **MARRACHÉ**: Thank you, Madame President, men and women of the Senate. This simply removes the fiscal note and allows the public advocate to work with the council within its budgeted resources. This was a bill I brought forth at the request of a constituent of mine who had a lot of difficulty with land that she owns. She has 60 acres and had a railroad bisect it so she could not access 50 acres. Her house is on the other 10 acres. She is paying property taxes on the 60 acres. It isn't just her. It's a lot of people around the state. For many of them, they cannot access the other side. For her it was particularly important because she has MS and she a horse that she likes to ride. It's therapeutic riding for her. She can't use her property. The railroad was unable to work with her so we requested that a council be set up so people just like her, who are in these situations, can go to a council, get their grievances heard, have the railroads at the table, and then they can come to us if nothing happens. It gives them a means to go and get the information they need and the help they need. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Savage.

Senator **SAVAGE**: Thank you, Madame President. I want to thank the good Senator from Kennebec, Senator Marraché, for suggesting the council because this was a situation that was really very difficult. This lady had all of this land and couldn't use it and couldn't afford to do anything to allow her to use it. Thank you, Senator Marraché.

On motion by Senator **MARRACHÉ** of Kennebec, Senate Amendment "A" (S-600) to Committee Amendment "A" (S-549) **ADOPTED**.

Committee Amendment "A" (S-549) as Amended by Senate Amendment "A" (S-600) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-549) AS AMENDED BY SENATE AMENDMENT "A" (S-600) thereto, in NON-CONCURRENCE.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (4/9/08) Assigned matter:

An Act To Clarify the Waste Motor Oil Disposal Site Remediation Program

H.P. 1383 L.D. 1947
(C "A" H-894)

Tabled - April 9, 2008, by Senator **MILLS** of Somerset

Pending - **ENACTMENT**, in concurrence

(In Senate, April 4, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-894)**, in concurrence.)

(In House, April 9, 2008, **PASSED TO BE ENACTED.**)

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

Senator **MILLS:** Thank you, Madame President. It's not my intention to interfere with the passage of this bill. I found one point in the bill that I thought was a little ambiguous or confusing and I thought I had an understanding of what the intention is of the drafters. I thought if the Chief Executive of the United States can do it, perhaps someone in the Maine State Senate might do the same. The issue, if I may address it very briefly, is that we are going to shift the way in which taxes are collected on oil to benefit the fund to supply money to the fund that cleans up the waste discharge sites. We're going to be shifting the tax from the retail level to a bulk sale level. There was a concern expressed to me by someone who called and said that they are in the business of buying oil in bulk and also distributing it from Maine into New Hampshire and other states. They were concerned that it not be the intent of the legislation to impose a tax on oil that is destined for consumption in another state. It's Section 11 of the bill, which will enact Sub-section 6a of Section 1012 in Title 10 of Maine Statutes. It refers to the first sale or distribution of bulk motor oil in the state. As I understand it, it is the intention of the bureau and of those who wrote this that if the oil arrives here and is destined to go somewhere else it won't be subject to this tax and only that oil that is destined for use here in the state will be taxed. With that clarification I'm content that this bill move forward unless I've misconstrued it.

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

The Chair laid before the Senate the following Tabled and Later (4/9/08) Assigned matter:

HOUSE REPORTS - from the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act Regarding the Operations of the Greater Portland Public Development Commission"

H.P. 1556 L.D. 2186

Majority - **Ought Not to Pass** (11 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-809)** (2 members)

Tabled - April 9, 2008, by Senator **SCHNEIDER** of Penobscot

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, April 9, 2008, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-809) AND HOUSE AMENDMENT "A" (H-969).**)

(In Senate, April 9, 2008, Reports **READ.**)

On motion by Senator **SCHNEIDER** of Penobscot, the Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-809) **READ** and **ADOPTED**, in concurrence.

House Amendment "A" (H-969) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME.**

On motion by Senator **TURNER** of Cumberland, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-809) AND HOUSE AMENDMENT "A" (H-969)**, in concurrence.

The Chair laid before the Senate the following Tabled and Later (4/9/08) Assigned matter:

An Act To Require Disclosure of the Compensation of Officers and Directors of Public Benefit Nonprofit Corporations
S.P. 636 L.D. 1792
(C "A" S-532)

Tabled - April 9, 2008, by Senator **SCHNEIDER** of Penobscot

Pending - **ENACTMENT**, in concurrence (Roll Call Ordered)

(In Senate, April 4, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-532).**)

(In House, April 9, 2008, **PASSED TO BE ENACTED.**)

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#424)

YEAS: Senators: BARTLETT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, COURTNEY, DIAMOND, HASTINGS, HOBBS, MARRACHE, MARTIN, MCCORMICK, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, SULLIVAN, WESTON, THE PRESIDENT -BETH G. EDMONDS

NAYS: Senators: BENOIT, DAMON, DOW, GOOLEY, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, TURNER

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

The Chair laid before the Senate the following Tabled
Unassigned matter:

An Act To Change the Timing of the Health Care Occupations
Report and To Add and Clarify Definitions Relating to Swimming
Pools and Spas

H.P. 1491 L.D. 2105
(C "A" H-874)

Tabled - April 7, 2008, by Senator **MARTIN** of Aroostook

Pending - **ENACTMENT**, in concurrence

(In Senate, April 2, 2008, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (H-874)**, in
concurrence.)

(In House, April 7, 2008, **PASSED TO BE ENACTED**.)

On further motion by same Senator, the Senate **SUSPENDED
THE RULES**.

On further motion by same Senator, the Senate
RECONSIDERED whereby the Bill was **PASSED TO BE
ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT
"A" (H-874)**, in concurrence.

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

THE PRESIDENT: The Chair recognizes the Senator from
Waldo, Senator Weston.

Senator **WESTON:** Thank you, Madame President, men and
women of the Senate. This does just two small corrections to this
bill. It changes the timing on the report and clarifies some
definitions.

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

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE
AMENDMENT "A" (H-874) AND SENATE AMENDMENT "A"
(S-574), in NON-CONCURRENCE.**

Ordered sent down forthwith for concurrence.

Senate at Ease.

Senate called to order by the President.

On motion by Senator **MITCHELL** of Kennebec, **ADJOURNED** to
Friday, April 11, 2008, at 10:00 in the morning.