

**STATE OF MAINE
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE**

In Senate Chamber
Thursday
February 3, 2005

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

Prayer by Reverend Glenn Peterson of the Hope Baptist Church of Manchester.

REVEREND PETERSON: All mighty God, we praise You today that You are the King of Kings and Lord of Lords. We acknowledge today that the earth is Yours and everything in it. All people in the world have been made in Your image and they belong to You as their King and Creator. We thank You, oh God, for these Senators who have been especially chosen by You as King to serve the people of the State of Maine. We thank You for the gifts and abilities that You have given to these Senators so that they might serve well those who have been made in Your image. We ask, oh King, that You would give these Senators wisdom today as they make decisions that will effect so many of Your subjects. We ask as well that You might give these Senators the courage to do what is right, even if they are harshly criticized for choosing to do what is best for the people of this state. We ask that You would help this body to be compassionate and merciful in all that they do and yet to be just at the same time. Finally, we would ask that the members of this Senate would follow the example of Jesus in all that they do today, for Jesus did not come to be served but to serve and to give his life away for many. May these public servants, these Senators, be faithful servants today of the people of the State of Maine and of You, the King of Kings and lord of lords. It is in Your great name that we pray. Amen.

Doctor of the day, Dr. Laurel Coleman of Manchester.

Reading of the Journal of Tuesday, February 1, 2005.

Out of order and under suspension of the Rules, on motion by Senator **BRENNAN** of Cumberland, the following Joint Order:
S.P. 182

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, February 8, 2005, at 10:00 in the morning.

READ and PASSED.

Ordered sent down forthwith for concurrence.

Off Record Remarks

PAPERS FROM THE HOUSE

House Papers

Resolve, To Extend the 2-year Rabies Vaccination Certificate to 3 Years (EMERGENCY)

H.P. 361 L.D. 486

Bill "An Act To Make Changes to the Laws Governing the Maine Potato Board" (EMERGENCY)

H.P. 378 L.D. 503

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

On motion by Senator **NUTTING** of Androscoggin, **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed, in concurrence.

Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2006 and June 30, 2007" (EMERGENCY)

H.P. 343 L.D. 468

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

H.P. 383 L.D. 508

Come from the House, **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and ordered printed.

On motion by Senator **ROTUNDO** of Androscoggin, **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and ordered printed, in concurrence.

Bill "An Act To Preserve the Fund for a Healthy Maine"
H.P. 390 L.D. 514

Comes from the House, **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and ordered printed.

On motion by Senator **ROTUNDO** of Androscoggin, **TABLED** until Later in Today's Session, pending **REFERENCE**.

Bill "An Act To Amend the Statewide Building Code"
H.P. 347 L.D. 472

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

On motion by Senator **BROMLEY** of Cumberland, **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed, in concurrence.

Bill "An Act To Decrease Correctional Costs and To Increase the Number of Probation Officers"
H.P. 375 L.D. 500

Bill "An Act To Enable Police Departments To Solicit Donations for Colleagues Suffering from Catastrophic Illnesses" (EMERGENCY)

H.P. 377 L.D. 502

Come from the House, **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed.

On motion by Senator **DIAMOND** of Cumberland, **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed, in concurrence.

Resolve, Directing the State Police, Commercial Vehicle Enforcement Division To Examine Enforcement Methods
H.P. 387 L.D. 511

Comes from the House, **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed.

On motion by Senator **DIAMOND** of Cumberland, **REFERRED** to the Committee on **TRANSPORTATION**, in **NON-CONCURRENCE**.

Sent down for concurrence.

Bill "An Act To Strengthen the Laws Concerning Methadone Clinics"
H.P. 395 L.D. 519

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

Comes from the House, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES**.

On motion by Senator **DIAMOND** of Cumberland, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed, in concurrence.

Bill "An Act To Cap Tuition Rates by Schools in the Unorganized Territory"
H.P. 353 L.D. 478

Comes from the House, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed.

On motion by Senator **MITCHELL** of Kennebec, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed, in concurrence.

Bill "An Act To Require That All Public School Employees Be Paid a Livable Wage Rate"
H.P. 368 L.D. 493

Committee on **EDUCATION AND CULTURAL AFFAIRS** suggested and ordered printed.

Comes from the House, **REFERRED** to the Committee on **LABOR**.

On motion by Senator **MITCHELL** of Kennebec, **REFERRED** to the Committee on **LABOR** and ordered printed, in concurrence.

Bill "An Act To Reduce School Truancy"
H.P. 370 L.D. 495

Committee on **EDUCATION AND CULTURAL AFFAIRS** suggested and ordered printed.

Comes from the House, **REFERRED** to the Committee on **TRANSPORTATION**.

On motion by Senator **DAMON** of Hancock, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed, in **NON-CONCURRENCE**.

Sent down for concurrence.

Bill "An Act To Provide Funding for the New Century Community Program"
H.P. 397 L.D. 521

Committee on **EDUCATION AND CULTURAL AFFAIRS** suggested and ordered printed.

Comes from the House, **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT**.

On motion by Senator **MITCHELL** of Kennebec, **TABLED** until Later in Today's Session, pending **REFERENCE**.

On motion by Senator **BRYANT** of Oxford, **REFERRED** to the Committee on **INLAND FISHERIES AND WILDLIFE** and ordered printed, in concurrence.

Bill "An Act To Reduce Costs Caused by New Procedure Changes for Health Care Providers"

H.P. 355 L.D. 480

Bill "An Act To Adopt the Maine Uniform Securities Act"

H.P. 384 L.D. 509

Resolve, To Ensure That Public Assistance Benefits Do Not Exceed Average Wages for a County

H.P. 356 L.D. 481

Comes from the House, **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES** and ordered printed.

Bill "An Act To Ensure Adequate Medical Care for Children"

H.P. 357 L.D. 482

On motion by Senator **MAYO** of Sagadahoc, **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES** and ordered printed, in concurrence.

Bill "An Act To Establish a Program for the Purchase of Prescription Drugs from out of the State and out of the Country for the Elderly and Disabled"

H.P. 369 L.D. 494

Bill "An Act To Simplify the Real Estate Foreclosure Process"

H.P. 344 L.D. 469

Come from the House, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed.

Committee on **INSURANCE AND FINANCIAL SERVICES** suggested and ordered printed.

On motion by Senator **MAYO** of Sagadahoc, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed, in concurrence.

Comes from the House, **REFERRED** to the Committee on **JUDICIARY**.

On motion by Senator **HOBBINS** of York, **REFERRED** to the Committee on **JUDICIARY** and ordered printed, in concurrence.

Bill "An Act To Increase Vital Records Fees"

H.P. 348 L.D. 473

Bill "An Act To Facilitate Real Estate Ownership"

H.P. 358 L.D. 483

Committee on **HEALTH AND HUMAN SERVICES** suggested and ordered printed.

Bill "An Act To Cure an Inconsistency Regarding Judgment Liens"

H.P. 366 L.D. 491

Comes from the House, **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT**.

Bill "An Act To Provide the Same Exemption from Jury Duty to Veterinarians as Granted to Medical Doctors"

H.P. 398 L.D. 522

On motion by Senator **MAYO** of Sagadahoc, **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed, in concurrence.

Come from the House, **REFERRED** to the Committee on **JUDICIARY** and ordered printed.

Bill "An Act To Authorize the Use of Tribal Sustenance Hunting Permits on State Lands"

H.P. 352 L.D. 477

On motion by Senator **HOBBINS** of York, **REFERRED** to the Committee on **JUDICIARY** and ordered printed, in concurrence.

Bill "An Act To Remove the Ethics Course Requirement for First Hunting and Fishing Violations and Require the Department of Inland Fisheries and Wildlife To Hold the Courses in a Location Within 100 Miles of All Citizens of the State"

H.P. 388 L.D. 512

Bill "An Act To Prohibit Permanent Replacement Workers"

H.P. 360 L.D. 485

Bill "An Act To Prohibit Bear Baiting within 100 Yards of an Adjoining Property"

H.P. 392 L.D. 516

Bill "An Act Concerning Payment of Health Insurance Premiums for Surviving Spouses of Maine State Retirement System Members"

H.P. 362 L.D. 487

Come from the House, **REFERRED** to the Committee on **INLAND FISHERIES AND WILDLIFE** and ordered printed.

Bill "An Act To Eliminate the Offset for Social Security and Certain Other Pensions for Unemployment Benefits"

H.P. 365 L.D. 490

Bill "An Act To Increase the Limit on the Right To Rejoin the Maine State Retirement System"

H.P. 391 L.D. 515

Bill "An Act To Improve Binding Arbitration in Public Sector Labor Relations"

H.P. 396 L.D. 520

Come from the House, **REFERRED** to the Committee on **LABOR** and ordered printed.

On motion by Senator **STRIMLING** of Cumberland, **REFERRED** to the Committee on **LABOR** and ordered printed, in concurrence.

Bill "An Act To Amend the Way Beverages Are Sold on Golf Courses"

H.P. 345 L.D. 470

Bill "An Act To Clarify City Election Procedures" (EMERGENCY)

H.P. 363 L.D. 488

Bill "An Act To Extend Term Limits"

H.P. 371 L.D. 496

Bill "An Act To Abolish the Maine Clean Election Act"

H.P. 381 L.D. 506

Come from the House, **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** and ordered printed.

On motion by Senator **GAGNON** of Kennebec, **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** and ordered printed, in concurrence.

Bill "An Act To Amend Laws Governing the Setting of the Sea Urchin Harvesting Season"

H.P. 354 L.D. 479

Bill "An Act To Amend the Hours for Lobster Fishing"

H.P. 389 L.D. 513

Come from the House, **REFERRED** to the Committee on **MARINE RESOURCES** and ordered printed.

On motion by Senator **DAMON** of Hancock, **REFERRED** to the Committee on **MARINE RESOURCES** and ordered printed, in concurrence.

Bill "An Act To Regulate Lead-smart Renovators and Lead Sampling Technicians"

H.P. 394 L.D. 518

Bill "An Act To Phase Out the Recycling Assistance Fee"

H.P. 402 L.D. 526

Come from the House, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed.

On motion by Senator **COWGER** of Kennebec, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed, in concurrence.

Bill "An Act To Prohibit State Departments, Agencies and Bureaus from Conducting Business with Any Entity That Outsources Services Outside of the United States of America"
H.P. 346 L.D. 471

Bill "An Act To Clarify the Authority of a County To Fund Its County Communications Center through the County Tax or Fee-for-service Agreements"

H.P. 349 L.D. 474

Resolve, Authorizing the Commissioner of Administrative and Financial Services To Place under Option or Right of First Refusal Certain Property along State Street, Augusta, Maine
H.P. 364 L.D. 489

Resolve, Authorizing the Commissioner of Administrative and Financial Services To Sell or Lease the Interests of the State in Certain Real Estate Located along the New Belgrade Road in Augusta

H.P. 379 L.D. 504

Bill "An Act To Require Legislative Oversight of Certain Agency and Administrative Rules"

H.P. 393 L.D. 517

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

On motion by Senator **SCHNEIDER** of Penobscot, **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed, in concurrence.

Bill "An Act To Change the Allocation of the Real Estate Transfer Tax"

H.P. 350 L.D. 475

Bill "An Act To Increase the Franchise Tax on Financial Institutions"

H.P. 351 L.D. 476

Bill "An Act To Enact the Tax Fairness Act"

H.P. 359 L.D. 484

Come from the House, **REFERRED** to the Committee on **TAXATION** and ordered printed.

On motion by Senator **PERRY** of Penobscot, **REFERRED** to the Committee on **TAXATION** and ordered printed, in concurrence.

Bill "An Act To Create a Special Higher Education License Plate"
H.P. 367 L.D. 492

Bill "An Act To Amend the Laws Relating to Changeable Signs"
H.P. 373 L.D. 498

Bill "An Act To Amend the Operator's License and Nondriver
Identification Card Requirements for Nonimmigrants"
H.P. 376 L.D. 501

Bill "An Act Relating to the Northern New England Passenger Rail
Authority"
H.P. 380 L.D. 505

Bill "An Act Concerning Dismantling of Railroad Track"
H.P. 386 L.D. 510

Bill "An Act To Facilitate Reimbursement of Public Utilities
Relocation Costs" (EMERGENCY)
H.P. 400 L.D. 524

Bill "An Act To Ban the Use of Handheld Cellular Telephones
while Operating a Motor Vehicle"
H.P. 401 L.D. 525

Come from the House, **REFERRED** to the Committee on
TRANSPORTATION and ordered printed.

On motion by Senator **DAMON** of Hancock, **REFERRED** to the
Committee on **TRANSPORTATION** and ordered printed, in
concurrence.

Bill "An Act To Amend the Charter of the Boothbay Region Water
District" (EMERGENCY)
H.P. 372 L.D. 497

Bill "An Act To Amend the Charter of the Boothbay Harbor Sewer
District" (EMERGENCY)
H.P. 374 L.D. 499

Bill "An Act To Designate 2-1-1 Maine, Incorporated as the Sole
Provider for 2-1-1 Information and Referral Services for the State
of Maine" (EMERGENCY)
H.P. 399 L.D. 523

Come from the House, **REFERRED** to the Committee on
UTILITIES AND ENERGY and ordered printed.

On motion by Senator **BARTLETT** of Cumberland, **REFERRED**
to the Committee on **UTILITIES AND ENERGY** and ordered
printed, in concurrence.

Pursuant to Public Law
Committee to Study Compliance with Maine's Freedom of
Access Laws

The **Committee to Study Compliance with Maine's Freedom
of Access Laws**, pursuant to Public Law 2003, chapter 709,
section 8 asked leave to report that the accompanying Bill "An Act
To Implement the Recommendations of the Committee To Study
Compliance with Maine's Freedom of Access Laws Concerning
Attorney's Fees"

H.P. 341 L.D. 466

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

Comes from the House with the Report **READ** and **ACCEPTED**
and the Bill **REFERRED** to the Committee on **JUDICIARY** and
ordered printed pursuant to Joint Rule 218.

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

On motion by Senator **HOBBS** of York, **REFERRED** to the
Committee on **JUDICIARY** and ordered printed pursuant to Joint
Rule 218, in concurrence.

Pursuant to Public Law
Committee To Study Compliance with Maine's Freedom of
Access Laws

The **Committee To Study Compliance with Maine's Freedom
of Access Laws**, pursuant to Public Law 2003, chapter 709,
section 8 asked leave to report that the accompanying Bill "An Act
To Implement the Recommendations of the Committee To Study
Compliance with Maine's Freedom of Access Laws Concerning
Personal Contact Information"

H.P. 342 L.D. 467

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

Comes from the House with the Report **READ** and **ACCEPTED**
and the Bill **REFERRED** to the Committee on **JUDICIARY** and
ordered printed pursuant to Joint Rule 218.

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

On motion by Senator **HOBBS** of York, **REFERRED** to the
Committee on **JUDICIARY** and ordered printed pursuant to Joint
Rule 218, in concurrence.

Pursuant to Statute
Department of Education, State Board of Education

The **Department of Education, State Board of Education**,
pursuant to the Maine Revised Statutes, Title 5, section 8072
asked leave to report that the accompanying Resolve, Regarding
Legislative Review of Chapter 125: Calendar Adoption, a Major
Substantive Rule of the Department of Education (EMERGENCY)

H.P. 340 L.D. 465

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed pursuant to Joint Rule 218.

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

On motion by Senator **MITCHELL** of Kennebec, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed pursuant to Joint Rule 218, in concurrence.

Off Record Remarks

Joint Order

The following Joint Order:

H.P. 385

ORDERED, the Senate concurring, that the Joint Standing Committee on State and Local Government shall study the movement of the Legislature to a largely paperless system through the installation of networked computer terminals at the desks of each Legislator in the chambers of the Senate and the House of Representatives and in the committee rooms. The committee shall study the methods used by other state legislatures to computerize their chambers.

The committee shall report back no later than December 15, 2005 to the Legislative Council with the committee's recommendations, including any necessary implementing legislation or joint orders.

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

READ and **PASSED**, in concurrence.

COMMUNICATIONS

The Following Communication: S.C. 50

**MAINE STATE LEGISLATURE
COMMITTEE ON AGRICULTURE,
CONSERVATION AND FORESTRY
AUGUSTA, MAINE 04333**

February 1, 2005

Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

L.D. 62 Resolve, To Require the Department of Conservation To Maintain Public Access To the Fire Tower on Rocky Mountain near Allagash

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

Sincerely,

S/Sen. John M. Nutting
Senate Chair

S/Rep. John F. Piotti
House Chair

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

The Following Communication: S.C. 51

**MAINE STATE LEGISLATURE
COMMITTEE ON CRIMINAL JUSTICE
AND PUBLIC SAFETY
AUGUSTA, MAINE 04333**

February 1, 2005

Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

L.D. 194 An Act To Restrict Personal Benefit by Public Employees

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

Sincerely,

S/Sen. Bill Diamond
Senate Chair

S/Rep. Patricia A. Blanchette
House Chair

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

The Following Communication: S.C. 52

**OFFICE OF THE PRESIDENT
3 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0003**

January 27, 2005

Honorable Joy O'Brien
Secretary of the Senate
3 State House Station
Augusta, ME 04333

Dear Secretary O'Brien:

Pursuant to my authority under Public Law 2003, Chapter 465, I am pleased to re-appoint Senator John Martin of Aroostook to the Long Term Care Oversight Committee. He will be representing a member of the Senate from the Health and Human Services Committee. He will also serve as the chairman.

If you have any questions regarding this appointment, please contact my office.

Sincerely,

S/Beth Edmonds
President of the Senate

READ and **ORDERED PLACED ON FILE**.

SENATE PAPERS

Bill "An Act To Ensure Statewide Access for Schools and Libraries to On-line Reference Materials and Periodicals"
S.P. 170 L.D. 544

Sponsored by President EDMONDS of Cumberland.
Cosponsored by Senators: BARTLETT of Cumberland, BROMLEY of Cumberland, SULLIVAN of York, Representatives: BLANCHETTE of Bangor, DUNN of Bangor, O'BRIEN of Lewiston, SMITH of Monmouth.

Bill "An Act To Authorize a General Bond Issue To Improve the Quality and Safety of Teaching and Science Laboratories"
S.P. 195 L.D. 586

Sponsored by Senator SCHNEIDER of Penobscot.
Cosponsored by Representative NORTON of Bangor and Senators: MARTIN of Aroostook, MAYO of Sagadahoc, MILLS of Somerset, MITCHELL of Kennebec, PERRY of Penobscot, STRIMLING of Cumberland, Representatives: EDGECOMB of Caribou, FINCH of Fairfield.

On motion by Senator **ROTUNDO** of Androscoggin, **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and ordered printed.

Sent down for concurrence.

Bill "An Act To Amend the Definition of 'Chiropractic Acupuncture'"

S.P. 174 L.D. 566

Sponsored by Senator SULLIVAN of York.
Cosponsored by Representative PERRY of Calais and Senators: BARTLETT of Cumberland, DIAMOND of Cumberland, President EDMONDS of Cumberland, MAYO of Sagadahoc, ROTUNDO of Androscoggin, Representatives: CANAVAN of Waterville, GLYNN of South Portland, PILON of Saco.

Bill "An Act Regarding Identity Theft Deterrence"

S.P. 190 L.D. 581

Sponsored by Senator BROMLEY of Cumberland.
Cosponsored by Representative KOFFMAN of Bar Harbor and Senators: BARTLETT of Cumberland, HOBBS of York, Representatives: BEAUDETTE of Biddeford, BERUBE of Lisbon, SMITH of Monmouth.

Bill "An Act To Reauthorize the Petroleum Market Share Act" (EMERGENCY)

S.P. 194 L.D. 585

Sponsored by Senator BROMLEY of Cumberland.
Submitted by the Department of the Attorney General pursuant to Joint Rule 204.

On motion by Senator **BROMLEY** of Cumberland, **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed.

Sent down for concurrence.

Bill "An Act To Encourage Greater Efficiencies in the Delivery of County Correctional Services"

S.P. 168 L.D. 542

Sponsored by Senator DAMON of Hancock.
Cosponsored by Representative BARSTOW of Gorham and Senators: CLUKEY of Aroostook, DIAMOND of Cumberland, NUTTING of Androscoggin, STRIMLING of Cumberland, Representatives: BLANCHETTE of Bangor, GERZOFSKY of Brunswick, SYKES of Harrison.

On motion by Senator **DIAMOND** of Cumberland, **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed.

Sent down for concurrence.

Bill "An Act To Amend the Charter of the Portland Public Library"
S.P. 187 L.D. 578

Sponsored by Senator STRIMLING of Cumberland.
Cosponsored by Representatives: ADAMS of Portland, BRANNIGAN of Portland, DUDLEY of Portland, EDER of Portland, HARLOW of Portland, MARLEY of Portland.

On motion by Senator **MITCHELL** of Kennebec, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed.

Sent down for concurrence.

Resolve, To Improve Medical Eligibility Assessments for Long-term Care Consumers

S.P. 171 L.D. 545

Sponsored by Senator ANDREWS of York.
Cosponsored by Speaker RICHARDSON of Brunswick and Senator: ROSEN of Hancock, Representatives: BOWLES of Sanford, CAMPBELL of Newfield, GROSE of Woolwich, LEWIN of Eliot, PINGREE of North Haven, WALCOTT of Lewiston, WEBSTER of Freeport.

Bill "An Act To Encourage Long-term Care Insurance and Expand Eligibility for MaineCare"

S.P. 193 L.D. 584

Sponsored by Senator MILLS of Somerset.

On motion by Senator **MAYO** of Sagadahoc, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed.

Sent down for concurrence.

Bill "An Act To Prohibit an Insurer from Cancelling an Insurance Policy due to Ownership of Certain Breeds of Dog"

S.P. 169 L.D. 543

Sponsored by Senator MITCHELL of Kennebec.
Cosponsored by Representative: MILLETT of Waterford.

Bill "An Act To Eliminate the Minimum Premium for Workers' Compensation Insurance"

S.P. 176 L.D. 568

Sponsored by Senator COWGER of Kennebec.
Cosponsored by Representative MOODY of Manchester and Senators: MAYO of Sagadahoc, MILLS of Somerset, SULLIVAN of York, Representatives: BOWLES of Sanford, BRAUTIGAM of Falmouth, DAIGLE of Arundel, HUTTON of Bowdoinham, SCHATZ of Blue Hill.

Bill "An Act To Make Changes to the Banking Laws"

S.P. 196 L.D. 587

Sponsored by Senator SULLIVAN of York.
Cosponsored by Senator: SNOWE-MELLO of Androscoggin, Representatives: HARLOW of Portland, MCKANE of Newcastle, PERRY of Calais, PILON of Saco, RICHARDSON of Warren. Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

On motion by Senator **MAYO** of Sagadahoc, **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES** and ordered printed.

Sent down for concurrence.

Bill "An Act To Require the Fair Application of the Mechanic's Lien Law"

S.P. 178 L.D. 570

Sponsored by Senator COWGER of Kennebec.
Cosponsored by Representative SMITH of Monmouth and Senators: BROMLEY of Cumberland, CLUKEY of Aroostook, DOW of Lincoln, NUTTING of Androscoggin, Representatives: FARRINGTON of Gorham, MOODY of Manchester, RECTOR of Thomaston, SCHATZ of Blue Hill.

On motion by Senator **HOBBINS** of York, **REFERRED** to the Committee on **JUDICIARY** and ordered printed.

Sent down for concurrence.

Bill "An Act to Promote Responsible Contracting Practices on State Projects"

S.P. 172 L.D. 546

Sponsored by President EDMONDS of Cumberland.
Cosponsored by Representative DUPLESSIE of Westbrook and Senators: BARTLETT of Cumberland, BRYANT of Oxford, STRIMLING of Cumberland, Representatives: DUNN of Bangor, HUTTON of Bowdoinham, PATRICK of Rumford, PINEAU of Jay.

Bill "An Act To Correct an Inequity in Calculating Maine State Retirement Benefits"

S.P. 177 L.D. 569

Sponsored by Senator MAYO of Sagadahoc.
Cosponsored by Representative HUTTON of Bowdoinham.

Bill "An Act To Generate Savings in the Unemployment Compensation Fund"

S.P. 181 L.D. 573

Sponsored by Senator CLUKEY of Aroostook.
Cosponsored by Representative MILLETT of Waterford and Senator: DOW of Lincoln, Representatives: CARR of Lincoln, JOY of Crystal, SHERMAN of Hodgdon, THOMAS of Ripley.

Bill "An Act To Supplement Benefits for State Employees and Teachers Whose Pensions Are Subject to Reductions Enacted in 1993"

S.P. 188 L.D. 579

Sponsored by Senator MILLS of Somerset.

Bill "An Act To Amend the Law Regarding the Use of 'Hearing Dogs' by Deaf and Hard-of-hearing Persons"

S.P. 192 L.D. 583

Sponsored by President EDMONDS of Cumberland.
Cosponsored by Representative PERCY of Phippsburg and Senators: ANDREWS of York, CLUKEY of Aroostook, Representatives: CARR of Lincoln, MILLER of Somerville, MOODY of Manchester, NUTTING of Oakland, SAMPSON of Auburn.
Submitted by the Department of Labor pursuant to Joint Rule 204.

On motion by Senator **STRIMLING** of Cumberland, **REFERRED** to the Committee on **LABOR** and ordered printed.

Sent down for concurrence.

Bill "An Act To Extend the Number of Days Nonprofit Organizations Are Allowed To Operate Games of Chance" (EMERGENCY)

S.P. 173 L.D. 547

Sponsored by Senator DIAMOND of Cumberland.
Cosponsored by Representative CEBRA of Naples, Representative PATRICK of Rumford and Senators: MITCHELL of Kennebec, PLOWMAN of Penobscot, Representatives: BLANCHETTE of Bangor, FISHER of Brewer, MOORE of

Standish, PINKHAM of Lexington Township, TUTTLE of Sanford, VALENTINO of Saco.

Bill "An Act To Eliminate Term Limits in the Legislature"
S.P. 180 L.D. 572

Sponsored by Senator STRIMLING of Cumberland.
Cosponsored by Representative THOMPSON of China and Senators: DAMON of Hancock, DOW of Lincoln, PLOWMAN of Penobscot, Representatives: CUMMINGS of Portland, DAVIS of Augusta, FISHER of Brewer, JODREY of Bethel, PINEAU of Jay, ROSEN of Bucksport.

On motion by Senator **GAGNON** of Kennebec, **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** and ordered printed.

Sent down for concurrence.

Bill "An Act To Continue the Ban on Dragging in the Taunton River Area" (EMERGENCY)

S.P. 185 L.D. 576

Sponsored by Senator DAMON of Hancock.
Cosponsored by Representatives: DUGAY of Cherryfield, EDER of Portland.
Submitted by the Department of Marine Resources pursuant to Joint Rule 204.

On motion by Senator **DAMON** of Hancock, **REFERRED** to the Committee on **MARINE RESOURCES** and ordered printed.

Sent down for concurrence.

Bill "An Act To Amend the Law Governing Rate of Growth Ordinances"

S.P. 186 L.D. 577

Sponsored by Senator BROMLEY of Cumberland.
Cosponsored by Representative KOFFMAN of Bar Harbor and Senators: DAMON of Hancock, MARTIN of Aroostook, Representative: BEAUDETTE of Biddeford.

Bill "An Act To Change the Effect of Local Ordinances on the State"

S.P. 191 L.D. 582

Sponsored by Senator BROMLEY of Cumberland.
Cosponsored by Representative KOFFMAN of Bar Harbor and Senator: DAMON of Hancock, Representatives: BEAUDETTE of Biddeford, SMITH of Monmouth.

On motion by Senator **COWGER** of Kennebec, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed.

Sent down for concurrence.

Bill "An Act To Amend Provisions of the Submerged Lands Laws"
S.P. 183 L.D. 574

Sponsored by Senator COWGER of Kennebec.
Cosponsored by Representative BRAUTIGAM of Falmouth and
Senator: NUTTING of Androscoggin, Representatives: MAREAN
of Hollis, PERCY of Phippsburg, TWOMEY of Biddeford.
Submitted by the Department of Conservation pursuant to Joint
Rule 204.

Committee on **NATURAL RESOURCES** suggested and ordered
printed.

On motion by Senator **COWGER** of Kennebec, **REFERRED** to
the Committee on **AGRICULTURE, CONSERVATION AND
FORESTRY**.

Sent down for concurrence.

Bill "An Act To Require Legislative Approval for the State To
Accept a Gift of 100 Acres or More of Land"
S.P. 175 L.D. 567

Sponsored by Senator DAVIS of Piscataquis.
Cosponsored by Representative JODREY of Bethel and Senator:
WOODCOCK of Franklin, Representatives: BOWLES of Sanford,
CARR of Lincoln, JOY of Crystal, PINKHAM of Lexington
Township, SHERMAN of Hodgdon, TARDY of Newport, THOMAS
of Ripley.

Bill "An Act To Amend the Laws Governing the Community
Preservation Advisory Committee"
S.P. 184 L.D. 575

Sponsored by Senator BROMLEY of Cumberland.
Cosponsored by Representative KOFFMAN of Bar Harbor and
Senators: DAMON of Hancock, MARTIN of Aroostook,
Representatives: BEAUDETTE of Biddeford, FARRINGTON of
Gorham.

On motion by Senator **SCHNEIDER** of Penobscot, **REFERRED** to
the Committee on **STATE AND LOCAL GOVERNMENT** and
ordered printed.

Sent down for concurrence.

Bill "An Act To Allow a Trade-in Credit in the Calculation of the
Automobile Excise Tax"
S.P. 179 L.D. 571

Sponsored by Senator COWGER of Kennebec.
Cosponsored by Representative RINES of Wiscasset and
Senators: DAMON of Hancock, NASS of York, ROTUNDO of
Androscoggin, STRIMLING of Cumberland, TURNER of
Cumberland, Representatives: MARLEY of Portland, MOODY of
Manchester, RECTOR of Thomaston.

Bill "An Act To Encourage Downtown and Urban Revitalization
while Meeting the Requirements of New Storm Water Rules"
S.P. 189 L.D. 580

Sponsored by Senator BROMLEY of Cumberland.
Cosponsored by Representative KOFFMAN of Bar Harbor and
Senators: DAMON of Hancock, MARTIN of Aroostook,
Representatives: BEAUDETTE of Biddeford, BERUBE of Lisbon,
FARRINGTON of Gorham.

On motion by Senator **PERRY** of Penobscot, **REFERRED** to the
Committee on **TAXATION** and ordered printed.

Sent down for concurrence.

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

ORDERS

Joint Order

Expressions of Legislative Sentiment recognizing:

Lucinda Yates, of Portland, who has been presented the first
Manufacturing Excellence Award by Maine Manufacturing
Extension Partnership. She is founder and CEO of Designs by
Lucinda, a jewelry manufacturing company that creates hand-
crafted wearable art that benefits social causes through symbolic
representation and whimsical creations. We congratulate Ms.
Yates on being so honorably recognized;
SLS 91

Sponsored by Senator BROMLEY of Cumberland.
Cosponsored by Senators: STRIMLING of Cumberland,
BRENNAN of Cumberland, Representatives: BRAUTIGAM of
Falmouth, MARLEY of Portland, CUMMINGS of Portland,
HARLOW of Portland, BRANNIGAN of Portland, EDER of
Portland, ADAMS of Portland, DUDLEY of Portland, SMITH of
Monmouth.

READ.

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

Senator **BROMLEY:** Thank you, Madame President, men and
women of the Senate. I rise for two reasons. Many reasons
actually, but first and foremost because Lucinda Yates, her
mother, and her sister are constituents of mine. Also, as the chair
of the Business, Research, and Economic Development
Committee, it is my honor to highlight her success today and for
us to consider for a moment what that means.

Her story is compelling on many levels. On a personal level,
she has gone from being homeless, literally, to working on her
kitchen table to now owning a very modern production facility and
employing 60 people. That, by itself, is amazing. It is also
compelling for the example that it sets for all of us. Lucinda,

herself, says that in order to be successful, we first have to imagine our best selves. I invite all of us, as policy makers, to do just that, to join her in doing that, and to think what it would mean if we were to focus on what works instead of putting so much of our emphasis on what doesn't. I ask us to think about this example; if we were to publish in the paper the names of all the drop outs of our schools what would that mean versus publishing the names on the honor roll? I will tell you today that Lucinda Yates and her business are members of the honor roll. In addition to being the recipient of the first award for Excellence in Manufacturing for the MEP, she also mentioned to me this morning that she put a million dollars in the pockets of Maine citizens last year in payroll. Because most of her pins sell out-of-state, she brought \$30 million to our state in cash. Of the 60 employees that she has, 30 work in their homes because of issues around childcare and transportation. It is my great honor to recognize Lucinda Yates today, and with leave of the Chair, would ask if I could present this sentiment to her at this time.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the chamber Lucinda Yates. Would she please rise and accept the greetings of the Maine Senate.

PASSED.

Sent down for concurrence.

Senate at Ease.

Senate called to order by the President.

Senator **DAVIS** of Piscataquis was granted unanimous consent to address the Senate off the Record.

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

RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

ENACTORS

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

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Allow the Legislature To Authorize Municipalities To Adopt a Property Tax Assistance Program That Reflects a Claimant's Ability To Pay
H.P. 222 L.D. 297

Comes From the House, RESOLUTION and accompanying papers **COMMITTED** to the Committee on **TAXATION**.

On motion by Senator **DAMON** of Hancock, RESOLUTION and accompanying papers **COMMITTED** to the Committee on **TAXATION**, in concurrence.

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Authorize the Legislature To Allow Municipalities To Exempt from Property Tax a Portion of the Value of Homesteads
H.P. 223 L.D. 298

Comes From the House, RESOLUTION and accompanying papers **COMMITTED** to the Committee on **TAXATION**.

On motion by Senator **DAMON** of Hancock, RESOLUTION and accompanying papers **COMMITTED** to the Committee on **TAXATION**, in concurrence.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act To Appropriate Matching Funds for the Construction of a Convention Center in Oxford Hills" (EMERGENCY)
H.P. 405 L.D. 550

Bill "An Act To Restore Support for HIV and AIDS Treatment and Prevention"
H.P. 421 L.D. 588

Come from the House, **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and ordered printed.

On motion by Senator **ROTUNDO** of Androscoggin, **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act To Allow Dental Hygienists To Prescribe Fluoride and Chlorhexidine"

H.P. 407 L.D. 552

Bill "An Act To License Real Estate Rental Agents"

H.P. 434 L.D. 601

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

On motion by Senator **BROMLEY** of Cumberland, **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act To Enhance the Prosecution of Child Pornography Cases"

H.P. 403 L.D. 548

Bill "An Act To Strengthen Probation Requirements for Convicted Sex Offenders"

H.P. 409 L.D. 554

Come from the House, **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed.

On motion by Senator **DIAMOND** of Cumberland, **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act To Require School Unions To Provide Transportation for Students"

H.P. 411 L.D. 556

Bill "An Act To Amend the Laws Governing the Student Code of Conduct"

H.P. 419 L.D. 564

Bill "An Act To Promote Education in the Unorganized Territory"

H.P. 427 L.D. 594

Come from the House, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed.

On motion by Senator **MITCHELL** of Kennebec, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Amend the Law Regarding Fishing Derbies"

H.P. 420 L.D. 565

Comes from the House, **REFERRED** to the Committee on **INLAND FISHERIES AND WILDLIFE** and ordered printed.

On motion by Senator **BRYANT** of Oxford, **REFERRED** to the Committee on **INLAND FISHERIES AND WILDLIFE** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act Regarding Medical Malpractice Insurance Rate Filings"

H.P. 423 L.D. 590

Bill "An Act To Ensure Insurance Coverage for Medically Necessary Breast Reduction and Symptomatic Varicose Vein Surgery"

H.P. 429 L.D. 596

Bill "An Act To Save the Health Care System Money by Ensuring Timely Denials of Claims"

H.P. 433 L.D. 600

Come from the House, **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES** and ordered printed.

On motion by Senator **MAYO** of Sagadahoc, **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act To Expedite the Forcible Entry and Detainer Process in Nonpayment Cases"

H.P. 404 L.D. 549

Bill "An Act To Clarify the Provisions for Child Support Orders Providing Health Insurance for Children"

H.P. 424 L.D. 591

Bill "An Act To Allow Case Management Officers To Conduct Hearings in Divorce Court"

H.P. 425 L.D. 592

Come from the House, **REFERRED** to the Committee on **JUDICIARY** and ordered printed.

On motion by Senator **HOBBS** of York, **REFERRED** to the Committee on **JUDICIARY** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Permit Interstate Wine and Malt Liquor Sales and Delivery to Homes"

H.P. 415 L.D. 560

Comes from the House, **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** and ordered printed.

On motion by Senator **GAGNON** of Kennebec, **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act To Protect the Recreational Harvesting of Surf Clams in Saco Bay"

H.P. 413 L.D. 558

Bill "An Act To Allow the Department of Marine Resources To Preserve and Protect Burnt Island and Burnt Island Living Lighthouse and To Regulate Their Use"

H.P. 428 L.D. 595

Bill "An Act To Provide for a Limited Sea Cucumber Fishery"

H.P. 435 L.D. 602

Come from the House, **REFERRED** to the Committee on **MARINE RESOURCES** and ordered printed.

On motion by Senator **DAMON** of Hancock, **REFERRED** to the Committee on **MARINE RESOURCES** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act To Amend the Solid Waste Landfill Laws"

H.P. 430 L.D. 597

Bill "An Act To Protect Household Pets and Other Small Animals from Poisoning"

H.P. 432 L.D. 599

Bill "An Act To Revise the Site Location of Development Laws"

H.P. 438 L.D. 605

Bill "An Act To Assist Municipal Implementation and Enforcement of Storm Water Management Programs"

H.P. 441 L.D. 608

Come from the House, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed.

On motion by Senator **COWGER** of Kennebec, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act To Amend the Budget Timetable for Oxford County"

H.P. 406 L.D. 551

Bill "An Act To Provide Relief from the Cost of Rescue Services to Certain Communities"

H.P. 412 L.D. 557

Bill "An Act To Improve Public Understanding in Rulemaking"
H.P. 417 L.D. 562

Bill "An Act To Strengthen Ethical Standards Regarding Former Legislators"
H.P. 422 L.D. 589

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

On motion by Senator **SCHNEIDER** of Penobscot, **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act To Alter Trade-in Allowances Regarding Motor Homes"
H.P. 426 L.D. 593

Bill "An Act To Provide an Income Tax Modification for the Federal Empowerment Zone Employment Credit"
H.P. 431 L.D. 598

Come from the House, **REFERRED** to the Committee on **TAXATION** and ordered printed.

On motion by Senator **PERRY** of Penobscot, **REFERRED** to the Committee on **TAXATION** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act To Enhance Driver Education and Safety" (EMERGENCY)
H.P. 410 L.D. 555

Resolve, To Require the Department of Transportation To Rebuild the Frank J. Wood Bridge between Brunswick and Topsham
H.P. 439 L.D. 606

Bill "An Act To Extend Passenger Rail Service to Midcoast Maine"
H.P. 440 L.D. 607

Come from the House, **REFERRED** to the Committee on **TRANSPORTATION** and ordered printed.

On motion by Senator **DAMON** of Hancock, **REFERRED** to the Committee on **TRANSPORTATION** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To End Discrimination against Persons with Pulmonary Disabilities in Northern and Eastern Maine"
H.P. 418 L.D. 563

Comes from the House, **REFERRED** to the Committee on **UTILITIES AND ENERGY** and ordered printed.

On motion by Senator **BARTLETT** of Cumberland, **REFERRED** to the Committee on **UTILITIES AND ENERGY** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act To Regulate the Display of Tobacco Products"
H.P. 408 L.D. 553

Bill "An Act To Require a Study and Comparative Report on Welfare"
H.P. 414 L.D. 559

Bill "An Act To Rename the Bangor Mental Health Institute the Dorothea Dix Center for Public Service and To Establish the Dorothea Dix Award"
H.P. 416 L.D. 561

Resolve, Directing the Department of Health and Human Services To Provide Local Alternatives to MaineCare's Mail-order Pharmacy
H.P. 437 L.D. 604

Come from the House, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed.

On motion by Senator **MAYO** of Sagadahoc, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed, in concurrence.

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the following Tabled and Later (2/1/05) Assigned matter:

Bill "An Act To Encourage Cooperation between School Districts"
H.P. 328 L.D. 443

Tabled - February 1, 2005, by Senator **SCHNEIDER** of Penobscot

Pending - **REFERENCE**

(In House, January 27, 2005, **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed.)

On motion by Senator **SCHNEIDER** of Penobscot, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**, in **NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (2/1/05) Assigned matter:

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Allow the Legislature To Authorize a Growth Limitation on the Taxable Value of Homestead Land

H.P. 7 L.D. 2
(C "A" H-3)

Tabled - February 1, 2005, by Senator **BRENNAN** of Cumberland

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, January 20, 2005, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-3)**, in concurrence.)

(In House, January 27, 2005, **FINALLY PASSED**.)

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

Senator **DAMON:** Thank you, Madame President, men and women of the Senate. I rise in support of L.D. 2. L.D. 2 was a portion of a rather large conglomeration of issues that were dealt with by the Joint Select Committee on Property Tax Reform. We have had come before this body and have voted for L.D. 1, which did provide some property tax relief to the residents and businesses of the State of Maine. Now before us are proposed amendments to the Constitution which would, if passed, allow legislation to be written that will further help those residents of the State of Maine with their property tax burdens.

L.D. 2, and a subsequent proposal to the Constitution, would particularly help those areas where valuations are rising to such levels and with such rapidity that men and women and families are being forced from their homes because of their inability to pay their property taxes. I have talked with some who say the value of their property is such that they can reap from it substantial monetary rewards. I can't argue that point. In order to realize that monetary reward they, indeed, have to do something that I personally find repugnant. That is that they have to leave their home, not their house, but their home. This is a home that, in many instances, they have resided in not only all of their lives, but the lives of generations of their family before them. A home that now has escalated with such value that they can no longer afford to pay the property taxes on that home. If they were to cash in their chips and sell out their homestead, they, indeed, could live the rest of their lives in comfort in that the monies that they would have gained from the sale would allow them to purchase a place, in many instances away from the shore or away from their family land.

But what have we done? One of the things that we will have done is we will have homogenized a community. Homogenized a community because people who can afford to pay the taxes on that land, that land that has reached such value, will buy it. I know from personal experience and I know that you know too that many of those people who can afford that land, desire it, and come to buy it don't intend to live on it year-round. They tend to gain from it their personal pleasures. That's great, absolutely great. When the weather gets tough, not quite like today but we have had weather worst than today, and they leave, what's left in that community? Are there enough people left in that community to keep the store open? To keep the gas station open? To keep the barbershop open? Indeed, to keep the post office open? Are there enough people to warrant that for those businesses? So if there aren't, and let me answer the question for you, in many instances there aren't enough people left to stay there, that community dwindles. The fabric of that community, the warp and the woof, have been pulled from that blanket and that community changes. Is it our wish that we provide a tax structure that promotes that fraying of the blanket or is it, indeed, our wish and our intention to provide a tax structure that will keep that blanket and that fabric of that community whole? I know where I come on it and I really hope, men and women of the Senate, that you come to the same place.

I wanted to show you a picture that, for me, demonstrates everything that I'm trying to put into words, but our rules prohibit me from doing that. I'll try to show it to you anyways.

It's two people, both fishermen, standing on a wharf. The older man, a man probably in his early seventies, has oilskins on. He's come in from fishing. In his eyes you see a person who has seen a lot, who has looked at horizons, who has looked at waves, who has looked at life. On his lips you see a faint smile. It's a smile of pride. It's a smile of satisfaction. In his hands, you see the hands that have done more work than any of us in here have done, only because he's lived longer than we have. They are knurled. They are wrinkled. They don't even open all the way because they've hauled so many lines and lifted so many objects. One of those hands, and probably the reason for the smile, rests on the shoulder of the second person on that wharf. The second person on that wharf is a fisherman too, except he's probably six or seven years old. Since I know both people in this photograph, I know that this younger fisherman is the grandson. Actually, he's the great-grandson of the first fisherman. So you have a

generation with hand on shoulder and the younger fisherman who has a smile that beams. It's not just a satisfied smile, it's an enthusiastic smile, because his hands are firmly wrapped around the tail of a codfish. He's holding it in front of him. Now I can't tell from the picture, and I'll leave it up to you to decide as well, whether or not the younger fisherman caught the codfish or whether or not the older fisherman, the great-grandfather, brought it in for the young boy to hold. Doesn't really matter. It symbolizes what they do. It symbolizes what they are. It depicts for me better than anything else what we're trying to save. We're trying to save families. We're trying to save generations of people who have lived on this land, have grown up on this land, have worked this land and the sea, and want to continue to do that. We have saved, or we are looking to save, the warp and the woof of that community fabric.

If I might, I'll finish with one final thing. It was written by one of the other generations in that picture, one between the great-grandfather and the great-grandson. It says, 'The grandfather stands on the wharf. Spirits of ancestors walk the paths, the docks, the shores. The island wind whispers their names in the night while their voices still echo in the morning mist, marking the tide of time, the flow of generations. The eldest of a fisherman closes his eyes. He sees a childhood of little now gone; a boyhood of work near forgotten; one marriage, one house, one home still strong; and a life stubborn, proud, tireless that marches on. The grandfather stands on the wharf. The dock that he built and rebuilt after fall days on the ocean hauling traps, after summer nights on the sea watching same. Passed onto son, it reaches ever outwards, solid and secure. He watches the sun glint on the ageless rippling harbor. He sees grandsons, great-grandsons, and great-granddaughters, boats, skiffs, rowboats slip in and out, ever bigger, ever faster, ever changing. They flicker like decades through the mind. The grandfather stands on the wharf, stooped in the September of his life, the air chilled in a way of fall, but he does not shiver, he just stands and watches over what his life has wrought.'

Ladies and gentlemen of the Senate, we must also stand collectively and by our actions watch what our actions have wrought. I urge you to support passage of this amendment so that we can keep that community. Thank you.

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

Senator **NASS:** Thank you, Madame President, men and women of the Senate. It would be nice if it were that easy to fix this problem. I think what we just heard from the Senator from Hancock, Senator Damon, is the emotional argument about why we should pass this. Unfortunately, I don't think this kind of a fix is going to resolve the problem or we might say that the solution is worse than the fix. When you talk about somebody's home, about their family, about their heritage, all of those things that, apparently, are going to be impacted by this proposal, it would be nice if that were the case. The reality of this is that this is a shift. We're asking somebody else to pick up the burden from, in this case, a specific person that now owns a very valuable asset. It would be nice if things were more stable and we didn't have to face these kinds of problems. Having spent the last two years of the last session in the Taxation Committee, we spent two years looking for a fix for this. This shifting is not a fix.

I will attempt to use an emotional argument also, but it won't be about a home, and it won't be about the family. Well, maybe it

is a little bit about the same thing. This was something I heard last night on Antiques Roadshow. This was about a Tiffany lamp. A Tiffany lamp. Much highly regarded, valuable piece of furniture owned by an elderly lady. Reading between the lines, this was an important piece of furniture for her. Highly regarded, been in the family for a long time. Just looking at her you could tell it was time to sell it. If the price on this lamp had been \$2,000, still a lot more than she thought it was worth, it probably wouldn't have been worth it. It turned out the lamp was worth over \$30,000. I think it was \$37,000 when they finally did the auction. She sold the lamp. Was probably the right thing to do for her age and she was encouraged by her adult children who were also part of this piece, this analogy. She was encouraged by her adult children to do this because it was probably in her best interest. Again I don't know that, but surmising.

What we have here, I think, is partly the same situation. It doesn't do any good to shift the burden from somebody that obviously has a problem with taxes to somebody else who has less assets or less income, because that is where this is going to go, to help somebody with a very large asset. That doesn't seem to me to pass the fairness test, Madame President. This is not the solution. Shifting taxes around is not the solution. That's what this is. I ask you to vote against the pending motion. Thank you.

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

Senator **MILLS:** Thank you, Madame President and men and women of the Senate. Let me take a completely, non-emotional, posture for a shift and just say that I agree, this is all about shifting burdens from one party to another. When you look at tax reform in an objective way, that's about what it is, unless you're talking about actually reducing spending or increasing spending. Reform is a rough synonym for shift. We've lived with the property tax under one set of rules since the Constitutional Convention of 1819, which adopted the general rule that all property should be assessed equally on the basis of its just value. That's a good rule. We have created certain exceptions over the years. We have made an exception for tree growth property and there is a great deal of tax shifting going on in this state right now in favor of people who own forestlands. I'm one of them. Frankly, the biggest shifts take place in those towns where there is the greatest degree of difference between certain forested property and other property. Those shifts are truly significant. We have adopted as a policy in this legislature the policy of reimbursing communities for some portion of that shift or that adjustment. In some towns, the reimbursement is a tiny fraction of that shift. We've also decided that land that is preserved for open space and certain forms of farmland should be treated in a different way. We have shifted taxes in favor of those uses of real estate.

This resolve really does nothing more than grant authority to some legislature, perhaps this one if it passes this coming November or some future legislature, to introduce a bill where we might have these very productive discussions about whether to make the shift, in what form, in what mode, how to control it, whether to give this authority to each municipality, and if so, under what conditions. All that this does, this raw language, is to say the legislature may have authority to begin conducting those discussions. What bothers me about the debate we're engaging today, and this applies to both sides, is that we're already making assumptions. We're already making assumptions about what a

future piece of legislation might look like if that legislature had this authority.

I need to stress, those of us on the committee that considered these measures, many of us felt very strongly that we should try to accomplish two things. We should try to increase the level of authority that the legislature has to deal with these awkward issues, these problems, these differences among various vested interests, but we should also take advantage of this opportunity to throw out to the public the opportunity to debate these issues. The discussions that have so far been framed for the public have been generated by people who have gone out to get 50,000 signatures underneath a bill that, in many cases, has been drafted very poorly or is inappropriate. We've seen this in the environmental area during the 1990's. Those clear cutting bills were awful in the form in which they were drafted. Yet the people were given them to vote on. The so-called tax reform stuff that has been generated for public referendum has been nothing suitable, frankly, for the public to vote on. These constitutional amendments, this one in particular, has been crafted and created in the crucible of this building. The work on this bill goes back at least a year or so, maybe a couple of years. A lot of work was done on it in the previous legislature. What you have before you is the distillation of a great deal of work by many, many people. Many eyes have read this. All I'm saying is isn't it time that we, in this building, started to create the opportunity for public discussion around rational alternatives and try to help the public structure its own thinking and its own opportunities for discussion and debate?

I might point out here that we thought it was important that there be a minimum required penalty for removing the land from this privileged status at the end and that is in this constitutional draft. As was true with tree growth, a legislature that chooses to make use of this authority might very well impose a higher penalty. We did that under tree growth for some number of years. I just think that we need to increase our flexibility in dealing with these awkward problems. This particular constitutional amendment is an opportunity to do that. It's an opportunity to get, to format, a more intelligent discussion of tax policy out in the public domain and it would give us, or some future legislature, greater flexibility in dealing with these awkward problems. For that reason, I'm going to vote for it, even without knowing what the impact may be in future years.

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

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. This particular issue has been something that has been very important to me since I came up here to the legislature two years ago. As I traveled throughout my district, talking to the people who are struggling with property taxes, probably one of the biggest concerns that I heard was valuation. The concern with this particular bill is that it addresses the land portion of the valuation and doesn't address the entire piece of the valuation. For that reason, I will be unable to support it at this time.

I think we've heard some good points, one of them with regards to the Constitution and amending it. I think that amending the Constitution is such a solemn thing that we do, I think that what we really need to do is to come up with a completed plan that addresses valuation before we go out and say that we want them to pass this only to bring it back in to fix it.

I think that the people of Maine have the right to know that if we're going to change the Constitution they have the right to know how we're going to change it.

It is with great reluctance that I'm not able to support this because I think that this takes a step in the direction, albeit it's not far enough. I can't support it because it's a Constitutional Amendment and we'd have to go through this entire process again to change this, but it acknowledges what the people have been telling me, and I know what they've been telling all of you, that valuation is a major problem in this state. If we want to address tax reform in a real way we're not going to do it with a circuit breaker, we're not going to do it with a homestead exemption, we're going to have to address valuation concerns. If we fail to do this, as a legislature, and there are many avenues left in the pile of bills to do it with, if we fail to do this we're going to do a disservice to the people and we are going to lose the face of the State of Maine. We're going to lose the people that have lived here for generations, as the good Senator has mentioned. It's not just a coastal issue. It's an issue that is moving inland. It's moving south. It's moving north. It's moving across the state. That's why, as we move forward and I trust this debate will be carried on throughout this session, I hope that we really look at providing valuation relief for everyone in the state. If we combine that with some of the things that we have tried to do with the spending caps in L.D. 1 and the commitments to control spending in all levels of government, I believe that some of the concerns that my good neighbor, the Senator from York, Senator Nass, mentioned can be reigned in and we can start to take property tax and move it into the realm of ability to pay. Thank you, Madame President.

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

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. I just wanted to provide a little perspective on what the steps are and where we need to go. Having served in Taxation for six years, I guess, in the past and having dealt with this issue many times, it's nice to see that we're finally at a point where we are doing something about property taxes in the State of Maine. I hope that we certainly do.

The Constitution prevents us from making adjustments in valuations. I hope that is clear to everybody. We can't pass a law. We can't go in and start dealing with the details, those intricate details, of where money shifts from, where it goes, or whether we're going to have money in the state budget to be able to fund that like we did with tree growth and other options. The Constitution prevents us from making those changes to residential property. The Constitution doesn't prevent us from doing it with tree growth, open land, and a few other things because there are exceptions in the Constitution. We have amended the Constitution to allow us to do that. While we have done that and the legislature, in its wisdom, has done that over the years to try to do that for open land and for trees in the State of Maine, we have not done that for homes. I would hope that we would see homes as important as trees, that homes are as important as fields in this state, and people's homes are as important as some of the other exemptions that are in current law within the Constitution.

There are stepping stones here. The first thing we need to do is to adjust the Constitution to allow the people of the State of Maine to say that they think it is a good idea for the legislature to

continue its work and come up with a process for our municipalities to provide some adjustments in valuations. It's not a matter of laying every little detail out on the table. That's not the way you build a house. You don't start with the roof and then work your way down to the basement. You start at the foundation. The foundation is that we have to adjust the Constitution. In fact, we don't just have to adjust the Constitution, the first step is that we have to ask the people of the State of Maine if they want us to adjust these changes and if they want to adjust the Constitution. If the people of the State of Maine, not us, not the Senate, not the House, not the Governor, but if the people of the State of Maine want to adjust the Constitution it would then permit us to come in and make the changes in the valuations and what the programs are going to be. It would also allow the people of the State of Maine, through the initiative process, to make the changes that they would like to have. Currently they can't do that. They can't initiate a bill. They can, but it would be deemed unconstitutional. They can't make a change to the way we value property. That was part of the problem with one of the initiated bills that we had last year. I hope that we will give the people of the State of Maine the opportunity to make this decision, not just keep it all within ourselves, but allow the people of the State of Maine and the way the Constitution is designed and how we amend the Constitution, that we let the people of the State of Maine have this ability, have this choice, on whether or not we move forward with this issue. Thank you.

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 Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#18)

YEAS: Senators: BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, DOW, GAGNON, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NUTTING, PERRY, RAYE, ROSEN, ROTUNDO, SCHNEIDER, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, CLUKEY, COURTNEY, DAVIS, HASTINGS, NASS, PLOWMAN, SAVAGE, SNOWE-MELLO, STRIMLING, TURNER, WESTON, WOODCOCK

This being an Constitutional Amendment, in accordance with the provisions of Section 4 of Article X of the Constitution, having received the affirmative vote of 22 Members of the Senate, with 13 Senator having voted in the negative, and 22 being less than two-thirds of the Members present and voting, **FAILED FINAL PASSAGE**, in **NON-CONCURRENCE**.

On motion by Senator **STRIMLING** of Cumberland, the Senate **RECONSIDERED** whereby the RESOLUTION **FAILED FINAL PASSAGE**.

On further motion by same Senator, RESOLUTION **COMMITTED** to the Committee on **TAXATION**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

The Chair laid before the Senate the following Tabled and Later (2/1/05) Assigned matter:

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Permit the Legislature To Allow the Current Use Valuation of Waterfront Land Used for or That Supports Commercial Fishing Activities

H.P. 224 L.D. 299

Tabled - February 1, 2005, by Senator **BRENNAN** of Cumberland

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, January 20, 2005, **PASSED TO BE ENGROSSED**, in concurrence.)

(In House, January 27, 2005, **FINALLY PASSED**.)

On motion by Senator **DAMON** of Hancock, RESOLUTION and accompanying papers **COMMITTED** to the Committee on **TAXATION**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

On motion by Senator **BRENNAN** of Cumberland, **ADJOURNED**, pursuant to the Joint Order, to Tuesday, February 8, 2005, at 10:00 in the morning.