

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

In Senate Chamber  
Tuesday  
March 2, 2004

Senate called to order by Joy J. O'Brien, Secretary of the Senate.

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The Senator from Kennebec, Senator **TREAT**, was appointed to serve as President Pro Tem for the session.

The Secretary requested the Sergeant-At-Arms escort the Senator from Kennebec, Senator **TREAT**, to the Rostrum where she assumed the duties as President Pro Tem.

Senate called to order by President Pro Tem **SHARON A. TREAT** of Kennebec County.

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Prayer by Rev. Dr. Beth Pendleton Clark, United Church of Christ, Retired.

**REVEREND CLARK:** Several years ago I was in Greece to study the Orthodox Church. I lived on the island of Crete, where I met Dr. Alexandros Papaderos who said to me, 'you, in America, do not know what it means to have your country occupied by a foreign power for 700 years; first by the Venetians and then by the Turks. What sustained us during that time was the Kyrie Eleison. This is a prayer that means, 'Lord, have mercy.' It is the abbreviated form of the so-called Jesus Prayer, which is this, 'Lord Jesus Christ, Son of God, have mercy on me, a sinner.' Will you join me in prayer.

Father of our Lord, the Christ, we come before You recognizing that we, too, are limited, fallible human beings. Only as we depend on Your understanding and power are we able to give our best. We pray for a deeper commitment to the betterment of all people, especially for those in our beloved State of Maine. Rededicate our wills and our efforts this day. Kyrie Eleison. Amen.

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Pledge of Allegiance led by Senator Edward M. Youngblood of Penobscot County.

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Doctor of the day, Lucien Ouellette, M.D. of Saco.

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Reading of the Journal of Thursday, February 26, 2004.

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Off Record Remarks

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**PAPERS FROM THE HOUSE**

**Joint Order**

The following Joint Order:

H.P. 1400

ORDERED, the Senate concurring, that the Joint Standing Committee on State and Local Government report out, to the House, a bill repealing certain boards and commissions.

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

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

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**COMMUNICATIONS**

The Following Communication:

S.P. 739

**121<sup>ST</sup> LEGISLATURE  
COMMITTEE ON  
AGRICULTURE, CONSERVATION AND FORESTRY**

March 2, 2004

The Honorable Beverly C. Daggett  
President of the Maine Senate  
3 State House Station  
Augusta, ME 04333-0003

Dear President Daggett:

We are writing to inform you that the Joint Standing Committee on Agriculture, Conservation and Forestry was unable to complete its consideration of the following nomination within the statutory period as required by 3 MRSA, section 157.

Nominated January 30, 2004: James Tracy of Farmingdale for reappointment to the State Harness Racing Commission.

Sincerely,

S/Bruce S. Bryant  
Senate Chair

S/Linda Rogers McKee  
House Chair

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

Sent down for concurrence.

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The Following Communication:

S.C. 470

**TASK FORCE TO STUDY THE NEEDS OF DEAF AND HARD OF HEARING  
CHILDREN AND ADOLESCENTS**

February 23, 2004

The Honorable Beverly C. Daggett, President  
Maine State Senate

The Honorable Patrick Colwell, Speaker  
Maine House of Representatives

State House  
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

Pursuant to Resolve 2003, chapter 84, the Task Force To Study The Needs Of Deaf And Hard Of Hearing Children And Adolescents is pleased to submit its final report. Copies of the report have been placed on file with the Law and Legislative Reference Library.

Sincerely,

S/Senator Betheda Edmonds, Chair

S/Representative Elaine Makas, Chair

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

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The Following Communication:

S.C. 471

**121<sup>ST</sup> LEGISLATURE  
COMMITTEE ON  
AGRICULTURE, CONSERVATION AND FORESTRY**

February 25, 2004

The Honorable Beverly C. Daggett  
President of the Senate  
The Honorable Patrick Colwell  
Speaker of the House of Representatives  
121<sup>st</sup> Legislature  
State House  
Augusta, ME 04330

Dear Madam President and Mr. Speaker:

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings of the Joint Standing Committee on Agriculture, Conservation and Forestry from the review and evaluation of the Department of Agriculture, Food and Rural Resources under the State Government Evaluation Act. In its review, the committee found that the department is operating within its statutory authority.

Sincerely,

S/Bruce S. Bryant  
Senate Chair

S/Linda Rogers McKee  
House Chair

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

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The Following Communication:

S.C. 472

**121<sup>ST</sup> LEGISLATURE  
COMMITTEE ON  
AGRICULTURE, CONSERVATION AND FORESTRY**

February 25, 2004

The Honorable Beverly C. Daggett  
President of the Senate  
The Honorable Patrick Colwell  
Speaker of the House of Representatives  
121<sup>st</sup> Legislature  
State House  
Augusta, ME 04330

Dear Madam President and Mr. Speaker:

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings of the Joint Standing Committee on Agriculture, Conservation and Forestry from the review and evaluation of the Baxter State Park Authority under the State Government Evaluation Act. In its review, the committee found that the department is operating within its statutory authority.

Sincerely,

S/Bruce S. Bryant  
Senate Chair

S/Linda Rogers McKee  
House Chair

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

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The Following Communication:

S.C. 473

**121<sup>ST</sup> LEGISLATURE  
COMMITTEE ON  
HEALTH AND HUMAN SERVICES**

February 24, 2004

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

Dear President Daggett and Speaker Colwell:

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

L.D. 1811      Resolve, To Ensure Access to Life-sustaining Pharmaceuticals

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

Sincerely,

S/Sen. Michael Brennan  
Senate Chair

S/Rep. Thomas J. Kane  
House Chair

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

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The Following Communication:

S.C. 474

**121<sup>ST</sup> LEGISLATURE  
COMMITTEE ON  
LEGAL AND VETERANS' AFFAIRS**

February 24, 2004

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

Dear President Daggett and Speaker Colwell:

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

L.D. 1643      An Act To Promote Fairness for Small Businesses That Serve Alcoholic Beverages

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

Sincerely,

S/Sen. Kenneth T. Gagnon  
Senate Chair

S/Rep. Joseph E. Clark  
House Chair

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

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The Following Communication:

S.C. 475

**121<sup>ST</sup> LEGISLATURE  
COMMITTEE ON MARINE RESOURCES**

February 24, 2004

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

Dear President Daggett and Speaker Colwell:

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

L.D. 1701     An Act To Amend the Fees of Special Licenses under the Marine Resources Laws

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

Sincerely,

S/Sen. Dennis Damon  
Senate Chair

S/Rep. Thomas Bull  
House Chair

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

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**SENATE PAPERS**

An Act To Authorize a General Fund Bond Issue in the Amount of \$2,000,000 for Disaster Relief and To Provide Further Relief Measures

S.P. 740 L.D. 1894

Sponsored by Senator BRYANT of Oxford.

Cosponsored by Representative PATRICK of Rumford and Senators: BRENNAN of Cumberland, EDMONDS of Cumberland, GAGNON of Kennebec, HALL of Lincoln, Representatives: CANAVAN of Waterville, EARLE of Damariscotta, PINGREE of North Haven, WALCOTT of Lewiston.

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

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

Sent down for concurrence.

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Resolve, To Reduce the State Valuation for the Town of East Millinocket

S.P. 741 L.D. 1895

Sponsored by Senator STANLEY of Penobscot.  
Cosponsored by Representative DUPREY of Medway and Representatives: PATRICK of Rumford, PERRY of Bangor, SUSLOVIC of Portland.  
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

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

Sent down for concurrence.

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**Pursuant to Resolve  
Joint Standing Committee on Natural Resources**

Senator MARTIN for the **Joint Standing Committee on Natural Resources**, pursuant to Resolve 2003, chapter 39, section 2 and chapter 101, section 3 asked leave to report that the accompanying Bill "An Act To Amend the Dissolved Oxygen Standard and the Bacteria Standard for Class C Waters"

S.P. 743 L.D. 1899

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

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

On motion by Senator MARTIN of Aroostook, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218.

Sent down for concurrence.

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**Pursuant to Resolve  
Joint Standing Committee on Natural Resources**

Senator MARTIN for the **Joint Standing Committee on Natural Resources**, pursuant to Resolve 2003, chapter 34 and chapter 101, section 3 asked leave to report that the accompanying Bill "An Act To Implement the Recommendations of the Community Preservation Advisory Committee Regarding the State Planning Office's Review of Growth Management Programs" (EMERGENCY)

S.P. 744 L.D. 1900

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

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

On motion by Senator MARTIN of Aroostook, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218.

Sent down for concurrence.

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**ORDERS**

**Joint Orders**

On motion by Senator KNEELAND of Aroostook, the following Joint Order:

S.P. 742

ORDERED, the House concurring, that the Joint Standing Committee on Judiciary report out, to the Senate, a constitutional resolution that defines marriage as being between one man and one woman.

**READ.**

On motion by Senator **GAGNON** of Kennebec, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

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The Chair noted the absence of the Senator from Kennebec, Senator **DAGGETT** and further excused the same Senator from today's Roll Call votes.

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The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#245)**

YEAS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, STANLEY, TURNER, WOODCOCK, YOUNGBLOOD

NAYS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, MAYO, PENDLETON, ROTUNDO, STRIMLING, THE PRESIDENT PRO TEM – SHARON A. TREAT

ABSENT: Senator: WESTON

EXCUSED: Senator: DAGGETT

16 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **KNEELAND** of Aroostook to **PASS, FAILED.**

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On motion by Senator **MARTIN** of Aroostook (Cosponsored by Representative SAVIELLO of Wilton and Senator: DOUGLASS of Androscoggin), the following Joint Resolution:

S.P. 745

**JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF  
THE UNITED STATES AND THE UNITED STATES CONGRESS  
TO SEEK THE RESIGNATION OF THE UNITED STATES  
SECRETARY OF EDUCATION**

WE, your Memorialists, the Members of the One Hundred and Twenty-first Legislature of the State of Maine now assembled in the Second Special Session, most respectfully present and petition the President of the United States and the United States Congress, as follows:

WHEREAS, the United States Secretary of Education occupies the most sensitive and important position from which to enunciate federal policy with respect to public education; and

WHEREAS, the vast majority of public school educators in the United States have organized into education associations, as is their right in accordance with both federal and state laws; and

WHEREAS, 2,700,000 educators belong to the National Education Association and invest their lives and their pride, as well as their money, to achieve their professional goals and those of their professional association; and

WHEREAS, the National Education Association is a leading voice across this nation on behalf of the interests of both public school educators and America's schoolchildren; and

WHEREAS, the Maine affiliate of the National Education Association and its more than 25,000 members are our friends, our neighbors, our family members and the teachers of our children; and

WHEREAS, as one Maine Education Association member put it, the teachers of our children feed, clothe, hug, nurse, play with, listen to, discipline, teach, dance with, share time and thoughts and feelings with, accept, model and teach acceptance to, respect and demand the same from, and love their students; and

WHEREAS, the current Secretary of Education, Mr. Rod Paige, has called the National Education Association, in public and utterly without justification, a "terrorist organization"; and

WHEREAS, the members of the National Education Association, the Maine Education Association and members of this Legislature know all too well what it means to label a group a "terrorist organization" while our nation wages real war against real terrorism; and

WHEREAS, labeling groups "terrorists" today is reminiscent of how some officials stooped to red-baiting half a century ago; now, therefore, be it

RESOLVED: That We, your Memorialists, on behalf of the people we represent, take this opportunity to condemn the use of the term "terrorist organization" to describe any American organization devoted to the welfare of our children or of working people or, for that matter, of any underprivileged members of our society; and be it further

RESOLVED: That we urge the President of the United States, George W. Bush, and the United States Congress to repudiate this confounding, inappropriate and inflammatory statement, unbecoming any cabinet official, least of all the Secretary of Education, and request that the President require Mr. Paige's resignation; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable George W. Bush, President of the United States; the President of the United States Senate; the Speaker of the United States House of Representatives; each Member of the Maine Congressional Delegation; Honorable John E. Baldacci, Governor of Maine; Reg Weaver, President of the National Education Association; and Rob Walker, President of the Maine Education Association.

**READ.**

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President. I want to go back to a discussion we had in this body a year ago on the issue of No Child Left Behind. It was an issue, as you may remember, that brought out, to some degree, a partisan vote saying, basically, that this was the best piece of legislation for education that had come down the pike. We now know that this is not the case. You have seen recently an announcement by our two United States Senators, Senator Snowe and Senator Collins, the creation of a committee made up of Maine's leading citizens, including a former chair of the Education Committee of this body, and many others to deal with the issues that this legislation has left us with.

When I discovered while reading the paper one day not long ago that the national leader responsible for No Child Left Behind made comments to the Governors at the White House I, frankly, became concerned. Some of us have been members of the National Education Association and our local educational association. I don't believe that any of us have ever called ourselves or considered ourselves to be terrorists. I know that since that time the Secretary has tried to distance himself from that comment. He said it was a joke. He said it was intended that way. Yes, he even tried to apologize. I can tell you for the teachers that I represent in my district that they are beyond themselves, concerned, upset, and in fact, I think disgusted. When I realized what was going on, I thought it was important that this legislature make it clear that we do not support the comments of the Secretary.

I know that some people will say that this is meant as a partisan attempt. It is not. It is not aimed at the President of the United States. It is the unfortunate statement by the Secretary of Education. I know that there are some people in this room who feel that the NEA has not been kind



to them and has not supported them. Frankly, I guess all they can do is go back and look at the record. I feel comfortable, not always having been with teachers and not always voting with the positions that they wanted. The last thing in the world that I am going to do is call the local education association in my district or the teachers who teach our children terrorists. It is not a time to use that word any more than what we do now. If you stop and think of what happens, and with what happens in local schools, when we talk with children about whether or not there is a bomb in the building, or for that matter, when we get on a plane and you even mention the word terrorism, mention the word knife, mention the word anything, it sends a different message. I would not be introducing this resolution today if this statement had been made 20 years ago, because I would have seen it as a joke. Today I don't see it that way. I'm sorry that some people will see this as a partisan issue. From my point of view it isn't because I firmly believe that what he did, combined with where teachers have to be right now with the No Child Left Behind legislation, I don't see why this was even said. Keep in mind the NEA opposed some of the provisions and spoke against the Secretary of Education for the legislation that had been created and put before the Congress, on which the Congress voted for, and which the President signed. Now members of the Congress, the very people who voted for it, to their credit, have legislation to amend and try to change it. I can hope that they are successful and I hope that the two United States Senators from Maine, after listening to the committee that they have created, will do just that. I cannot, as one Senator, stand and say that the Secretary of Education should stay in office.

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

Senator **BENNETT:** Thank you, Madame President and fellow members of the Senate. The resolution before us is not about No Child Left Behind. This is about presidential politics, plain and simple. It is an election year. It's 2004. It is the beginning of March. The bombshells are flying. We've heard nothing but negativity. We've heard nothing but criticism. We've heard nothing during this time but attacks on the Republican administration. This is just a continuation of that approach. This resolution would have this legislature waste our valuable time dealing not with the matters before us or with the pressing issues of the state in this special session, but weighing in on what various political leaders, at the federal level, are saying, whether they misspeak, or whether they make an argument. We are supposed to waste our valuable time dealing with those questions. This is what this resolution asks us to do and it sets a very bad precedent for the use of our time.

I'm reminded that not every one is perfect with their speech. Sometimes people say things that they regret. I've done that. I'm sure the Senator from Aroostook, Senator Martin, has done that. I'm sure that others have done that. Secretary Paige apologized for his comment. He tried to explain the context. He apologized and took responsibility for it. A few years ago a United States Senator called the Republican members of Congress terrorists. He said that they were legislative terrorists. That Senator was John Kerry, who is now running for President of the United States and is the probable Democratic nominee. There is a difference between what Secretary Paige said and the way he reacted to it and the way that Senator Kerry reacted to the criticism for his comment. Secretary Paige apologized. Senator Kerry offered no apology, no contrition. In fact, he said that terrorists hold hostages and the Republicans were holding the government hostage.

I think we've got other more pressing matters than this before us. If for no other reason, to discourage such resolutions from being offered in the future, we should vote against this.

On motion by Senator **BENNETT** of Oxford, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Androscoggin, Senator Douglass.

Senator **DOUGLASS:** Madame President, women and men of the Senate, I rise in support of the Joint Resolution that is presented to you today because what it speaks to is how we should engage in our public discussion. It's very important to remember that right now the State of Maine and our local communities are spending millions of dollars to comply with the federal mandate. That federal mandate, the No Child Left Behind Act, has some good points to recommend it. It also has some negative. It has a certain lack of flexibility. That is one of the negatives. The positives are that it does raise the standard for all schools, for all categories of students, in all states.

Yes, our time here is valuable and the education policy that we set forth is important to our citizens. The way in which we argue and debate about that policy is also important. That is why I think it is so very necessary to recognize that if we resort to calling each other names in order to win the battle, we will lose something that is otherwise a moral characteristic of our society, which is that, in general, we are able to talk about idea, facts, and why something that we believe in is important for the rest of our nation. Let's make sure that this is how we do discuss politics and how

we do discuss education. I think it is going to be virtually impossible for the Secretary of Education, at the federal level, Secretary Paige, to lead us in complying with the No Child Left Behind Act after having said these words and being so very unsympathetic to the fact that they would be taken as something in the way of a truth rather than a joke.

We know that sometimes people resort to saying things that they only barely mean or might present something as a tease or a joke because they want to portray that they don't really mean it but they are actually trying to convey something in the way of truth. I think that is the way in which Secretary Paige made this comment. Frankly, for me an apology doesn't change what I see as the underlying attitude that needs to be replaced. I do know that we've had some of the regional members of the Federal Education Department at our Education Committee meetings here in the legislature. I have found that they work in all ways with decorum. I think it is certainly possible for the President to find someone who can do this.

I urge you to vote in favor because we should be in favor of sticking to the facts, sticking to persuasion with our moral arguments, and to refrain from name calling.

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Off Record Remarks

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

Senator **TURNER:** Thank you, Madame President. In fact, rather than listening to me, I would prefer that we listen to the Merimanders. I'm sure it would be much more entertaining and useful.

I don't have anything to add to the comments that have been made by those Senators who have spoken before me this morning. However, I do think that Joint Resolutions are best brought forward and dealt with when they incur the unanimous support of the chamber rather than to enhance the divisiveness that seem to pervade our chamber in this 121<sup>st</sup> session. I wish the resolution wasn't before us. I do think it is inopportune to present it at this time. I believe that the Secretary of Education was sincere in his apology. The remark was regrettable and he has apologized for it. I think we should let it rest at that. Thank you, Madame President.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Penobscot, Senator Sawyer.

Senator **SAWYER:** Thank you, Madame President, ladies and gentlemen of the Senate. Frankly, I could not agree more with the essential comment by the Senator from Androscoggin, Senator Douglass, in that we shouldn't allow name calling, either at this level or at the federal level. In so keeping, I would certainly hope that the members of this body who vote for this resolution would also decry those people who indicated that the President of the United States was AWOL, was absent without leave, which was equally full of hyperbole and inappropriate. I would certainly hope that no one in this chamber, or anyone following our discussions, would delude themselves that the resolution before us is anything other than pure partisan politics and shame on those who vote for it. Thank you.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Cumberland, Senator Brennan.

Senator **BRENNAN:** Thank you, Madame President, men and women of the Senate. I intend to vote for this resolution and I hope that other members of this body will too. My aunt taught in Maine's schools for 40 years and was a Maine Teacher of the Year. My wife was a teacher in Maine for over 15 years. I have been certified to teach in Maine and have taught in Maine myself. To have the most visible representative of the educational community, at the federal level, call the largest teachers' organization in this country a terrorist organization is simply not acceptable. We have over 200,000 young people in this state attending public schools in grades K through 12. What is the message that is being sent to them when the Secretary of Education, to nations' Governors, calls the largest teachers' organization in the country a terrorist organization? What is the message to them? I think it is very appropriate for this body to send the message that this type of comment is not appropriate and that we want our young people to know that when you call an organization a terrorist organization it should not be an organization that represents hundreds of thousands, if not millions, of people across this country that are dedicated to their education. Thank you very much.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Penobscot, Senator Mitchell.

Senator **MITCHELL:** Thank you, Madame President. I sit here, once again, listening to the debates that are going on and viewing the voting that has definitely been going down partisan, the likes of which we've never had in the eight years that I have been here until this year. This gentleman, Mr. Rod Paige, made a comment. It was rude. We all agree with that. It was uncalled for. It was not justified. He did apologize. Every one of us in this room has made those types of comments.

The good Senator from Androscoggin, Senator Douglass, with whom we have worked very hard in our Education Committee to make sure we had bi-partisan votes on all of the issues that we dealt with. No Child Left Behind is not a part of this Joint Resolution. When we were working so diligently to have the No Child Left Behind a bi-partisan effort, a comment was made by the good Senator from Androscoggin, Senator Douglass, who is also the chair of that committee, that this was going to be a partisan vote on a particular bill. She later apologized for that. We all know we make mistakes and say things that we don't mean. In the context of what is happening around us, and the emotions, we ask and hope that the people around are going to accept those apologies, which we all do. That is why we are the good Christians that we are and we are elected to this position in this Senate body to make policy that is actually going to impact the citizens of Maine.

I certainly would ask that all of you forget this partisan politics, accept the apology that was made as we do from others here in our chamber and who hold office across this country, and resume our work and duties. Please join me in voting against this resolution.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President and members of the Senate. Let me say how pleased I am to hear that members of the minority in the Senate are now going to view the impact of No Child Left Behind as a non-partisan issue as opposed to the position that was taken last year in this body because that is the issue. As a matter of fact, I have in my hand, which was in my mail from the weekend, something from the Maine School Management, of which I am also a member. This is not one of those liberal organizations. Guess what it is all about? No Child Left Behind and what it has done. 'In just two years, the Federal No Child Left Behind Law has shaken up what it means to be a successful school.' There is our problem and this is the individual who is in charge. The reason why the statement was made by the Secretary is quite clear, he is opposing Maine School Management, the MEA, the NEA, and other organizations that teachers belong who are opposing his position. He just doesn't like it. That is the issue here today.

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

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. For me this issue isn't so much about No Child Left Behind. It has to do with an issue that occurred even before 9/11. That was the Columbine incident. We are now in a situation with superintendents and school principals saying, 'never again, not in my school.' What we are seeing on television in different places are kids that are sprawled out on the floor with police having their guns drawn because of the zero tolerance in schools. This is what we are expecting from children these days in schools. They are at a time when there is a considerable amount of pressure having to do with their rights, having to do with how we have to make schools safe, and we are walking this very fine line between those issues, always favoring on the safety side. We seem to be falling that way each time and probably appropriately so. The point is, children are going to have zero tolerance. If you go to school with a nail clipper, or some little item that might be sharp, there is zero tolerance. You get thrown out of school for an amount of time. So what are we saying to young children when other people can make statements, at the highest levels of government, at the highest levels of our educational community, and there is tolerance there on certain issues having to do with terrorism?

Concerning the issue of whether or not this is partisan politics and what is good for the Presidential race, you know there is really nothing better, from a partisan perspective, than to have Secretary Paige remain with the President as an anchor around his neck as we head into this Presidential race. Of course, the issue really has to do with the education community and what is best for the children of this country and for the programs. We need someone who is strong in that leadership position, who is respected by all sides, in order to move forward. I would encourage everyone to vote in favor of this resolution so we can move forward. Thank you.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Washington, Senator Shorey.

Senator **SHOREY:** Thank you, Madame President, men and women of the Senate. May I pose a question through the Chair?

**THE PRESIDENT PRO TEM:** The Senator may pose his question.

Senator **SHOREY:** I have heard a lot today during this debate about examples for children and I was just curious. Did this body put forth a resolution several years back when the President of the United States lied to the people and showed a very poor example for children of what morals are or what morals aren't? Did this body put forth a resolution then? I don't think so. Thank you.

**THE PRESIDENT PRO TEM:** The Senator from Washington, Senator Shorey poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON:** Madame President, I don't know the answer to that question because I wasn't hear at that time. I am here now, though, representing the people of my area. I will tell you, though, there is an example that I recall recently in which a U.S. Senator, the Senate Majority Leader, also made comments. He apologized profusely, over and over again, but yet members of his party replaced as their leader.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Franklin, Senator Woodcock.

Senator **WOODCOCK:** Thank you, Madame President, ladies and gentlemen of the Senate. Well, it's very obvious that this isn't political. It's very obvious this isn't a political year. It's very obvious that we didn't debate marriage at all but we're going to debate memorializing the President of the United States, thereby establishing our priorities. My opposition to this motion is very straightforward. It has nothing to do with Secretary Paige's comment, which I consider to be inappropriate. It has nothing to do with the validity of the No Child Left Behind Act. It has everything to do with memorializing the President of the United States through a Joint Resolution in the Maine Senate, which I continue to oppose because I don't think it's the place for us to do so considering the other important business that is before us. My opposition remains along those lines. So in this bi-partisan, A-political attempt, I remain opposed to the motion before us for a very simplistic reason, it shouldn't be here. Thank you, Madame President.

**THE PRESIDENT PRO TEM:** The pending question before the Senate is the motion by the Senator from Aroostook, Senator Martin to Adopt this Joint Resolution. 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 (#246)**

**YEAS:** Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, THE PRESIDENT PRO TEM – SHARON A. TREAT

**NAYS:** Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MAYO, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WOODCOCK, YOUNGBLOOD

**ABSENT:** Senator: WESTON

**EXCUSED:** Senator: DAGGETT

17 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **MARTIN** of Aroostook to **ADOPT, PREVAILED.**

Sent down for concurrence.

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**REPORTS OF COMMITTEES**

**House**

**Ought to Pass**

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act Concerning the Boundary Line of the Town of Unity"

H.P. 1301 L.D. 1779

Reported that the same **Ought to Pass**.

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

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

**READ ONCE**.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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**Ought to Pass As Amended**

The Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Provide Residents of the United States with Timber Harvesting Jobs on Land Managed by the Department of Conservation, Bureau of Parks and Lands"

H.P. 1304 L.D. 1782

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-714)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-714)**.

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

**READ ONCE**.

Committee Amendment "A" (H-714) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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The Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act Requiring Blood Testing of All Drivers Involved in Fatal Accidents"

H.P. 1325 L.D. 1803

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-712)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-712)**.

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

**READ ONCE**.

Committee Amendment "A" (H-712) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

The Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Increase the Amount of Restitution Allowed for State and Municipal Fire Service"

H.P. 1344 L.D. 1821

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-713)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-713)**.

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

**READ ONCE.**

Committee Amendment "A" (H-713) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Provide an Exemption to the Laws Governing Patient Confidentiality Regarding Certain Former Patients of the Augusta Mental Health Institute"

H.P. 1219 L.D. 1642

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-719)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-719)**.

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

**READ ONCE.**

Committee Amendment "A" (H-719) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Clarify the Requirements of the Behavioral Treatment Review Team for Persons with Mental Retardation or Autism"

H.P. 1261 L.D. 1739

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-720)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-720)**.

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

**READ ONCE.**

Committee Amendment "A" (H-720) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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Off Record Remarks

The Committee on **TRANSPORTATION** on Bill "An Act To Honor Maine's First Peoples"  
H.P. 1254 L.D. 1732

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-717)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-717)**.

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

**READ ONCE.**

Committee Amendment "A" (H-717) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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The Committee on **UTILITIES AND ENERGY** on Bill "An Act To Amend the Information Disclosure Requirements of Some Competitive Electricity Providers"

H.P. 1263 L.D. 1741

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-718)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-718)**.

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

**READ ONCE.**

Committee Amendment "A" (H-718) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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**Senate**

**Ought to Pass**

Senator DAMON for the Committee on **TRANSPORTATION** on Bill "An Act To Allow Communications Towers on Land of the Maine Turnpike Authority"

S.P. 608 L.D. 1676

Reported that the same **Ought to Pass**.

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

**READ ONCE.**

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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**Ought to Pass As Amended**

Senator SAVAGE for the Committee on **TRANSPORTATION** on Bill "An Act To Amend Transportation Laws"

S.P. 605 L.D. 1654

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-406)**.

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

**READ ONCE**.

Committee Amendment "A" (S-406) **READ** and **ADOPTED**.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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**Divided Report**

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Require the Videotaping of Police Interrogations"

S.P. 286 L.D. 891

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-405)**.

Signed:

Senators:

STRIMLING of Cumberland  
CARPENTER of York

Representatives:

BLANCHETTE of Bangor  
GERZOFKY of Brunswick  
GROSE of Woolwich  
MAIETTA of South Portland  
CHURCHILL of Washburn  
MILLS of Farmington

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

Signed:

Senator:

HATCH of Somerset

Representatives:

LESSARD of Topsham  
SNOWE-MELLO of Poland  
GREELEY of Levant  
SYKES of Harrison

Reports **READ**.

Senator **STRIMLING** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

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** Report.

**Divided Report**

The Majority of the Committee on **MARINE RESOURCES** on Bill "An Act To Provide for Department of Marine Resources Jurisdiction Over Certain Sections of the State's Endangered Species Program"

S.P. 634 L.D. 1702

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-403)**.



Signed:

Senators:

DAMON of Hancock  
PENDLETON of Cumberland  
BENNETT of Oxford

Representatives:

SULLIVAN of Biddeford  
ASH of Belfast  
DUGAY of Cherryfield  
PERCY of Phippsburg  
MUSE of Fryeburg  
McNEIL of Rockland  
KAELIN of Winterport  
BIERMAN of Sorrento  
BOWEN of Rockport

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (S-404)**.

Signed:

Representative:

BULL of Freeport

Reports **READ**.

On motion by Senator **DAMON** of Hancock, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-403)** Report **ACCEPTED**.

**READ ONCE**.

Committee Amendment "A" (S-403) **READ** and **ADOPTED**.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY**.

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

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### **SECOND READERS**

The Committee on **Bills in the Second Reading** reported the following:

#### **House**

Bill "An Act Relating to the Consideration of the Cumulative Effects on Protected Natural Resources"

H.P. 1361 L.D. 1837

**READ A SECOND TIME** and **PASSED TO BE ENGROSSED**, in concurrence.

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#### **House As Amended**

Bill "An Act To Eliminate the Social Security Offset for Unemployment Benefits"

H.P. 657 L.D. 880

(H "A" H-715 to C "B" H-633)

Bill "An Act To Authorize Licensure by Endorsement for Canadian Dentists and Dental Hygienists"  
H.P. 1258 L.D. 1736  
(C "A" H-708)

Bill "An Act To Amend the Random Drug Testing Laws"  
H.P. 1282 L.D. 1760  
(C "A" H-711)

Bill "An Act To Amend the Maine Emergency Medical Services Act of 1982"  
H.P. 1284 L.D. 1762  
(C "A" H-709)

Bill "An Act To Provide for Fair Treatment of Taxpayers"  
H.P. 1291 L.D. 1769  
(C "A" H-699)

Bill "An Act Concerning Disability Retirement Benefits under the Maine State Retirement System"  
H.P. 1336 L.D. 1814  
(C "A" H-710)

**READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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

**PAPERS FROM THE HOUSE**

**House Paper**

Bill "An Act To Prohibit Financial Institutions from Requiring a Fingerprint or Thumbprint To Complete a Transaction"  
H.P. 1406 L.D. 1898

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

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

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Off Record Remarks

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

**PAPERS FROM THE HOUSE**

**House Paper**

Resolve, Authorizing the Town of Eustis To Exchange a Certain Parcel of Land  
H.P. 1403 L.D. 1896

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

On motion by Senator **ROTUNDO** of Androscoggin, **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:

**COMMUNICATIONS**

The Following Communication:

H.P. 1405

**STATE OF MAINE  
OFFICE OF THE SECRETARY OF STATE  
AUGUSTA, MAINE 04333**

February 9, 2004

Honorable Millicent MacFarland  
Clerk of the House  
2 State House Station  
Augusta, ME 04333

Dear Clerk MacFarland:

Enclosed please find my official certification to the 121st Legislature of the citizen initiative petition entitled "An Act to Impose Limits on Real and Personal Property Taxes."

Sincerely,

S/Dan A. Gwadosky  
Secretary of State

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**STATE OF MAINE  
DEPARTMENT OF STATE**

**I, Dan A. Gwadosky, Secretary of State, hereby certify** that written petitions bearing signatures of 51,255 electors of this State were addressed to the Legislature of the State of Maine and were filed in the office of the Secretary of State on June 3, 2003, requesting that the Legislature consider an act entitled "An Act to Impose Limits on Real and Personal Property Taxes."

**I further certify** that the number of signatures submitted is in excess of ten percent of the total votes cast in the last gubernatorial election preceding the filing of such petitions, as required by Article IV, Part Third, Section 18 of the Constitution of Maine, that number being 50,519.

**I further certify** this initiative petition to be valid and attach herewith the text of the legislation circulated on the petition's behalf.

**In testimony whereof**, I have caused the Great Seal of the State of Maine to be hereunto affixed. Given under my hand at Augusta on the ninth day of February in the year two thousand and four.

S/Dan A. Gwadosky  
Secretary of State

Comes from the House, **READ** and with accompanying papers **ORDERED PLACED ON FILE**.

**READ** and with accompanying papers **ORDERED PLACED ON FILE**, in concurrence.

The accompanying Bill:

"An Act To Impose Limits on Real and Personal Property Taxes"

I.B. 4 L.D. 1893

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

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

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**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 (1/29/04) Assigned matter:

SENATE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Improve the Business Equipment Tax Reimbursement Program"

S.P. 316 L.D. 975

Report "A" - **Ought Not to Pass** (10 members)

Report "B" - **Ought to Pass as Amended by Committee Amendment "A" (S-361)** (2 members)

Report "C" - **Ought to Pass as Amended by Committee Amendment "B" (S-362)** (1 member)

Tabled - January 28, 2004, by Senator **STANLEY** of Penobscot

Pending - motion by same Senator to **ACCEPT** Report "A", **OUGHT NOT TO PASS**

(In Senate, January 28, 2004, Reports **READ**.)

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

Senator **STRIMLING:** Thank you, Madame President. I rise today in opposition to the motion. It seems to me that this is really a simple bill and a simple concept to understand. We are in a very difficult time fiscally and I offered this bill in order for us to find a way to save some money. For those who don't know, there is a provision in Maine law that currently allows a company who receives a tax break from their local community, a TIF, a rebate on their tax bill. They don't have to pay any property tax. That locality says that is okay. We all know the personal property tax on business equipment has been in place in the State of Maine for a long time. There has been a lot of controversy around that.

A few years back a previous legislature put together a bill to try to compensate for the fact that the personal property tax on business equipment was burdensome to some businesses. We recreated a rebate program to say, 'we want to help you expand, we want to alleviate the burden of the personal property tax on business equipment and therefore we will give you a rebate on that bill.' It's pretty simple, pretty easy to understand. I can recognize why this legislature would have done that. The problem is that there was a loophole in that bill which said that even those businesses that went to their local community and got a TIF. Whatever it was, 25%, 50%, or 100%, they got a TIF and they can still come to the state and get a rebate for money they never had to pay. That is fiscally irresponsible. Basically what it says is that you, the property tax payer, could make money off your property tax bill, make profit off your tax bill, make profit off the rest of the people in the State of Maine who have to pay their taxes and don't get any rebate. Make no mistake; these are mostly big companies who make the biggest rebate. Companies like General Dynamics, who is one of the top defense contractors in the world. They need to come to us to get an extra million-dollar rebate? I don't think so. Not when times are tough.

Understand that this is not like ETIF. There are no jobs connected to this. They don't have to pay a livable wage in order to get this rebate. They don't have to provide health care in order to get this rebate. In fact, they don't have to provide any jobs to get this rebate. Nothing. They get the money, do with it as they please, and we have no accountability to that company.

Today I ask you to oppose the motion and then support Committee Amendment "A" (S-361) because it is the fiscally responsible thing to do in these tough, tough times. We are kicking kids off mental health services. We are cutting back on education. We're cutting back on infrastructure. Everybody had to feel some pain in our last budget except this program. Everybody. I'll add, finally, when I was running for this office, I went and met with a number of companies, a number of companies on the list who get the double dip. What they said was, 'Look, we understand when times are tough you have to share the pain. We understand that, just don't target us.' That was their

line. 'Just don't target us.' I said, 'Okay, we'll try to share the pain.' When the day came to say would you share the pain and participate in all the cuts, they weren't up at the table. That was disappointing. Everybody else felt it, but not the people in this program. So I ask you to oppose the motion. Thank you very much.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Cumberland, Senator Edmonds.

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. I also rise in opposition to this motion. While I agree whole-heartedly with the previous speaker, I have just one additional thing. It seems to me we have to actually keep this particular piece of legislation and this idea alive. Everybody is struggling to figure out property tax relief and here is a whole place where we are not discussing the property taxes and the relief that is being given to these businesses. I think, in all fairness to our constituents and homeowners in our districts, we have to have this conversation. I would urge you to vote against the pending motion. Thank you.

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

Senator **NASS:** Thank you, Madame President, ladies and gentlemen of the Senate. My good friend from Cumberland, Senator Strimling, and I set next to each other on the Taxation Committee. We've had great discussions over the last year and a half. As you can tell this morning, he does not like the word profits. That is a bad word, apparently. We've talked about this, so this is really no surprise. I happen to like that word because I know that is what makes this economy of our run. That is what provides new jobs, new construction, new everything. Without profits we have no economy. A part of this vote today is about that.

As you will notice, the committee report had ten members in favor of the Ought Not to Pass, three others on the two minority reports. The opposition today has passed out a fairly complete package, which I think we've all received. I'm just going to read you the names of the companies, because everybody in this room is going to be effected by this kind of a proposal. National Semiconductor, International Paper, Bath Iron Works, Fairchild Semiconductor, Warsaw Paper, Tambrands, Interstate Brands, Pratt-Whitney, and in my district, Poland Springs. All of them are big employers, big investors, all of them providing good jobs in Maine.

This proposal to do away with the double dip, no matter what you think of it, is going to affect all of those companies because, in the end, businesses do no pay taxes, neither here or any place else. As much as you might not like to believe that, they pass it on to their customers, their employees, everybody else pays taxes. Whether it is a double dip or not, businesses do not pay it in the end. Also I think we need to recognize the fact that this situation, the double dip, is a result of both the state's need to do something about these large job producers and the desire of the municipalities to contribute to that. That is what the double dip is all about. As much as we might like to remove this, just look at the list of companies who are going to be affected, and think of the kinds of jobs that are going to be affected.

The bottom line is that we might like to that these companies need to be in Maine, but they do not need to be in Maine. How will they disappear? They won't just pack up their suitcase and leave or roll down the road to South Carolina or something like that. They will disappear slowly. We're seeing that now with the papermills. We know how it happens. There are announcements in the newspaper that investments are being made in such and such a company. It's not often a new paper machine they are buying; they are investing in pollution control equipment. That kind of investment does not necessarily make them more competitive and does not create new jobs in the State of Maine. They will continue to look like they are investing in Maine and they won't be. They will be disappearing. They will be gone in 15 years. Nothing dramatic, just gone. We're seeing it now. Every day in every part of the state.

Madame President, I urge that you support the majority Ought Not to Pass report. Thank you.

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Off Record Remarks

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**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Androscoggin, Senator Douglass.

Senator **DOUGLASS:** Madame President, men and women of the Senate, I rise urging you to vote against the pending motion because I think it is important that we speak for the individual tax

payers of our state. The situation in which our corporations find themselves is one in which they have actually gained a windfall because we are so very pleased that they are here. They are so very important to our economy. Nevertheless, they should not be benefiting at the expense of our individual taxpayers. I'm familiar with the TIF that benefits Poland Springs, which is one of the few businesses that probably can't go too far from our location because it is directly effected by a great natural resource that we have here, our wonderful spring water. In order to process more bottles of water, they required a hook-up to purify the waste or to treat the waste. I'm very much in favor of that. The TIF that was used to provide them some tax relief in order to hook-up to that much needed sewer is an important benefit in our infrastructure. It is a benefit to the town, as a whole. To have to double payment for taxes is just not fair. It wouldn't be fair if it were a benefit to you and I. It's not fair with respect to our corporate citizens.

I would urge you to vote against the pending motion so that we can go on and make this a fair situation where individual taxpayers are treated in the same fashion as corporate taxpayers.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Penobscot, Senator Stanley.

Senator **STANLEY:** Thank you, Madame President, ladies and gentlemen of the Senate. I rise today urging you to support the Ought Not to Pass. The reason why I am saying that is because our tax policy has got to start looking at jobs. Jobs is the name of the game in this state. Right now 35,000 people, fellow Mainers, are unemployed in this state. This is not a good thing. It is not a good thing because there are 35,000 families affected by this. I come from a position where I can see where the benefit that a company can gain through this might save a thousand jobs or 2,500 jobs. That is very important to the economy in this state at this time.

The other reason why I urge support of this motion is because a TIF is done at the municipal level. You vote on a TIF, you vote on a municipal level. What we should have been doing years ago instead of TIF is to get more involved with ETIF. The problem that we have in this state is our low wages. We should have been doing some things to improve the wages for the working class of the people of this state. That is what we should be doing. That is what I am fighting for and that is why I believe that this piece of legislation right here is a piece of legislation that we don't need to do. The reason why I am saying that is because, when you look down the road that a lot of people have fought for, what we have is a situation where we, the legislature, has told companies that we would give them reimbursements on their personal property taxes. We did that. It is not at the municipal level. It's nobody else. We are the ones that did that. It started from a small fee that wasn't supposed to get very high. Now we're up to about \$62 million a year. There are only about 1,400 companies taking advantage of this situation. If all the companies took advantage of it, there would be a lot higher price tag. We, the legislature, made a commitment to do this. We ought to be moving down that road.

The thing we want to remember though is the jobs. Jobs is the name of the game here, people. We have tax problems and jobs are going to help us out of it. Our low wages will not be very good until we bring those wages up. We sit there and place people's lives in jeopardy. It might not sound like it, but I worked for a company who was getting between \$500,000 to \$1 million a year for this. Don't sound like much, but I tell you what, for a company that has a high capital investment and repairs to equipment that is being used to produce their products, \$500,000 to \$1 million is a lot of money that can help them keep their equipment running and keep them providing jobs. At the time I was working for this company, there were 1,200 people. Today we have one mill shut down, we have about 340 people working. We've lost almost 900 jobs in the state. Would this save those jobs? Probably not. What is happening is that it helps these companies survive and pay these wages. I was earning real good money back then. Since then, with everything has gone on, I have lost \$5 an hour due to a cut in pay. This is a substantial amount of money. I'm making a lot more than a lot of people in the State of Maine.

The thing I really want to stress is that it is time for us, as a state, to start addressing tax reform. This is the first step in that. The reason why I'm saying that is because tax reform is about producing jobs and building an economy. We have to build an economy in this state. Right now the economy is on a down-wards spiral. If we don't turn things around pretty quick, there are going to be a lot more people and the 35,000 will go to 50,000. It's an endless spiral right now. We have to create some jobs. We made a commitment for the TIF, for the ETIF, and for the BETR program. I think in these economic times we have to stay focused on our commitment. This is not the time to be playing games with the different legislations that are out there. I'll tell you what, you come up to my neck of the woods, in the northern half of the state and the rural areas of the state, and you will see that there is a different Maine up there. A Maine that the poverty is not because of poverty, it is because of the low wages that we have. That is sad.

With that, I encourage people to vote for the Ought Not to Pass and let's move on because this is not the first time or the last time that you are going to hear me stand in front of this body and talk

about jobs. Our tax policy has to reflect jobs. If we don't get jobs, we're not doing the right thing here. We have to have an economy based on people working. That is the name of the game. People working. When people are making money, the State of Maine is making money and we can do the things that we have to do to improve the quality of life for the people that we have. If nobody is working, and nobody's quality of life is improving, everybody is going down. Every time you lose a job, you get one or two people going onto Mainecare program, which is an expense. Somebody is going to have to pay for this. To me, we should leave this right alone for the time being and maybe do something under tax reform, which is the right direction to be going in. There has got to be a complete picture, you cannot look 5' from your face, you have to look an arm length from your face. The future is out there; you have to look into the future and not just a quick fix. With that, I urge you to support the Ought Not to Pass motion.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Cumberland, Senator Brennan.

Senator **BRENNAN:** Thank you, Madame President, men and women of the Senate. I'm in substantial agreement with comments that were made by the colleague from Cumberland, Senator Strimling, except on one point. This is a bad idea and it's a bad idea in good times, bad times, or neutral budget times. This was bad tax policy in 1995 when it was implemented. We shouldn't be talking about repealing it now simply because we have a budget problem. We should be talking about repealing it because it's bad tax policy. The reason that there have been repeated attempts to repeal this provision is that everybody knows it's bad tax policy. While I appreciate his comments, that this is a way for us to potentially free up money, it really is to address bad tax policy and that is why we should do it.

Secondly, the good Senator from York, Senator Nass, said that my colleague from Cumberland, Senator Strimling, had a problem with profit. This is what this was about, profit. I took economics in college. The first rule of economics is not profit, it's investment. You can never get to profit unless you properly invest. I would argue that the money from this double dip, if we was to eliminate it and invest it in the university system or in our K-12 system or in our young people, the return on that investment would be a profit to the State of Maine and the people of Maine in ways that we don't enjoy now under this double dip. It's not fair. Thank you and I hope you will vote against the pending motion.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Penobscot, Senator Sawyer.

Senator **SAWYER:** Thank you, Madame President, ladies and gentlemen of the Senate. First of all I'd like to compliment the Senator from Penobscot, Senator Stanley, because I think that he is able to connect the dots. A TIF is a local decision made by local decision makers to fund infrastructure improvements in their town. We don't foist it on them. We don't mandate it. We enable them to make those decisions. BETR is a reimbursement for taxes paid. It's a business equipment tax reimbursement. That is a state decision that we make. Frankly, I find double dip to be either a really good ice cream or a strange rope jumping event and not appropriate to this discussion.

Finally, I agree with the Senator from Cumberland that we need to discuss property tax. I agree. I have no problem with the discussion of TIFs and BETR. Let me tell you, in my hometown of Bangor, I pay about twice the property tax that I should because half the tax in my town is property tax exempt in the first place. Let's talk about those people who don't pay any tax first before we start talking about those that are reimbursed for taxes actually paid or those that are reinvesting, based on a local decision for infrastructure in their town. I would urge your vote Ought Not to Pass. Thank you.

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

Senator **STRIMLING:** Thank you, Madame President. So much to respond to, so little time. I first want to say that I absolutely concur with my good colleague from Penobscot, Senator Stanley. This is about jobs. This is about jobs. No question. The problem is that there are no jobs in this bill. We have passed legislation with no accountability. I would be glad to entertain a motion to take all of the double dip money and put it into the ETIF program. I'd do it in a heartbeat if we want this to truly be about jobs.

Let me clarify my comments about profit. I love profit. Great. Good for the economy. Good for families. Good for the State of Maine. The problem is, and I believe that my good colleague from York, Senator Nass, would agree, that profiting off the public dole is a problem. In fact, just the other day we were having a hearing in which my colleague expressed concern with not-for-

profits making exorbitant salaries off the public dole. Why is there a double standard that says a not-for-profit should not be allowed to make money off the public dole but a for-profit should? I agree a not-for-profit should not be making money off the public dole. I agree 100%. I don't believe that not-for-profits should be paying their CEOs exorbitant salaries off the public dole. I believe it 100%. Why then do we give a blind eye to for-profit companies making money off the public dole?

Finally, I would say that when you talk to people about this in your districts across the State of Maine, they couldn't believe that this policy exists. They cannot believe that we have a policy here that says that we put a program in place in order to compensate companies for a burdensome tax and in the process allow them to make money. They get more money back on their tax bill. People look at that and say, 'I cannot believe it, how can such a policy exist?' My good colleague from Cumberland is absolutely correct. Unfortunately, I've never been here in the good times, so I didn't get to have this debate then. Good times or bad times, this is bad economic policy. In bad times, when people are feeling the pain, this is horrible economic policy.

The same Senator requested a Roll Call.

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

**Senator NASS:** Thank you, Madame President, men and women of the Senate. Just some basic tax situations, I guess, are probably necessary at this point to remind everybody that the businesses I mentioned before pay lots of taxes; payroll taxes, real property taxes, a lot of licensing fees, and whatever. What we are talking about today is a tax on personal property or business equipment. The idea that some company is somehow not paying into the State of Maine is much more complicated than what we are talking about today. It does not likely arise from this issue. They are paying taxes, but they are paying less tax because of the state's policy and the ability of the local communities to grant a rebate on the same business property. This does not create a situation, by itself, where somebody is not paying taxes. It's just the amount of taxes that they are paying that we are talking about.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Oxford, Senator Bennett.

**Senator BENNETT:** Thank you, Madame President and fellow members of the Senate. In my view, this measure before us is not only about jobs, as very articulated by the Senator from Penobscot, Senator Stanley. It is, as the Senator from Cumberland, Senator Brennan, indicated, about tax policy. I have to say the fact that we are debating this measure at this time further underscores the legislature's distance from the reality faced by the people of Maine and our businesses in their real economic times that they are living in.

I'm sure that every person in this Senate has a different idea about what ideal tax policy is. I think, as it relates to this particular measure, my heart is more towards report C, which nobody has even broached yet. Nonetheless, a perspective looking change is the way change should go. If there is one thing that we need to do in this state it is to provide some modicum of predictability so that people who are making investment decisions, and very serious investment decisions, about where they are going to allocate their capital to give their shareholders or their owners a return on their investment so that they can make plans to provide employees a certain level of wages, so that they can make plans to provide their communities a certain level of participation, so that health benefits will be more guaranteed, we need to have predictability in our tax code. What this measure before us would do is provide less predictability.

My view is that we ought to get rid of BETR entirely. We could do that simply by getting rid of the tax itself. That's been suggested. A lot of people are supportive of that concept. Other people in other public offices in Maine, in high power offices, are supporting that view. We cannot do this change in a vacuum. The fact is that we are here today talking about one piece of a very complex puzzle of property taxes and other taxes in Maine. If there is one thing that I've heard over and over in the last few weeks and months it is people are tired of this legislature not doing its job on tax reform. It is this piecemeal approach, where people get up and make fancy speeches and have votes recorded, but not actually deal with the whole pie and dealing with it in a responsible and affirmative way, that are driving the processes and the motives behind people putting forward citizen initiatives so that now we're sending out to the public all sorts of complex solutions to this problem.

People just don't know what the future is for taxes. That goes for the homeowner who is trying to decide whether they can afford to live in their house or whether they should sell, put their house on the market and move into some other town or a small residence. It goes for the big businesses that are making investment decisions in this state. It is the abject failure of this legislature to deal with the issue of tax reform in a comprehensive way that is the issue behind this bill, right here,



right now. My conclusion is that we should let the tax committee of this legislature deal with the moment at hand, not in a distracting way with one little piece of the puzzle that this bill represents, but in a comprehensive way. I perceive that in this legislature, in this Senate, there is finally the sense that we need to do something and we need to do it together, because many of us are going to be the ones who are picking up the pieces when it is all said and done next June or November. My hope is that we can begin to deal with this issue, but we're not going to deal with it by having continuing debates over matters like this. I think that the Taxation Committee has plenty of vehicles on hand to deal with this issue in a comprehensive fashion. I pledge my support to work with them in coming up with a collaborative solution. In the meantime, I encourage you to vote Ought Not to Pass on this bill.

On motion by Senator **STRIMLING** of Cumberland, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Washington, Senator Shorey.

Senator **SHOREY:** Thank you very much, Madame President, men and women of the Senate. I'd like to address the business climate in Maine. The business climate in Maine, as you well know, has been ranked as one of the worst places for small businesses. It really doesn't matter what our business ranking is. It's not a great place to do business, currently. The State of Maine is not. I can tell you that right now because I'm a small businessperson. I'm a manufacturer. There are better places in this United States. Unfortunately, a lot of companies see overseas as being a better place to do business. We don't have trucks lining up in Kittery to come into Maine with their companies because it is such a great deal, this BETR program we have. As a matter of fact, the State of Maine is one of the few states, I think it's five or six at most, that even has business equipment taxes. Businesses look at that when they consider coming to Maine.

We have companies closing here in Maine. Who do we blame? We blame those corporate headquarters. Who do we blame? We blame NAFTA. Who don't we blame? We don't blame ourselves. We certainly don't look in the mirror and say Maine is a crummy place to do business because of the laws we have passed or Maine's not a good place to do business because of the laws that our predecessors have passed. That is the reality. You can have a plant close and they can move to New York State and get a better deal. You can have a company that probably hurt us, public relation wise, is Burt's Bees. She actually said in Fortune magazine in January that when she reached \$3 million in sales she had to leave Maine. Where did she go? North Carolina. What did the Governor of North Carolina say to the people of Maine? Your jobs aren't going overseas, they are coming to North Carolina. Why? Because they are friendlier. She noted that wages were higher down in North Carolina. She paid her people more in North Carolina. Yet, due to the regulatory climate, she was making more money in North Carolina. Do we want the people in the State of Maine to make more money? I would think so.

How can it be that a company can move from Maine, go to North Carolina, and their people more money, yet make more of a profit? Legislative instability. The good Senator from Oxford, Senator Bennett, mentioned this. Companies like to make forecasts. When companies make investments, what they want is a stable climate. They want to go to their investors and say 'We're going to invest in Maine because we know that this is going to be a place where we can get a return on our investment.' They don't know that now. As a matter of fact, the good Senator from Androscoggin, Senator Douglass, suggested that maybe we should tax the people that can't move. Poland Springs isn't going anywhere. Let's tax them some more. Funny, we thought that way about the paper companies, didn't we? Where are they going? They are leaving. The shoe industry in the good Senator's district is gone. There is no shoe industry. I employ a few people. I'm one of three companies in the State of Maine that makes shoes here. Not very many. Why? They can make their shoes overseas. Can they do a better job over there? No, I don't think so. As a matter of fact, I was talking to some people from Sebago who Overland Industries purchased and promptly closed down. Their plant manager, assistant plant manager, and head of hand sewing are in the Dominican Republic right now, training their replacements. Why? Because Sebago did not want to be in Lewiston any more. They did not want to be in a district where they have no stability. They were paying too much tax.

As far as Maine being one of the few states that has BETR. Let's say Maine didn't have a BETR tax. Didn't have an equipment tax. Would we then make it impossible for the local municipalities to offer special incentives for these companies to come to their areas? I don't think we would do that. I think we would allow TIFs if we were to get rid of BETR. What is the difference? I agree with the good Senator from Oxford, Senator Bennett. Let's just get rid of BETR and not have it. Let's put us on a more level playing field with the rest of the country in trying to attract high paying jobs. Thank you very much.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Piscataquis, Senator Davis.

Senator **DAVIS:** Thank very much, Madame President. I agree with those that have risen and said this is about jobs because that is exactly what it is about, in my mind. I, perhaps, hold the distinction here in the Senate that I'm sure no one envies me in. I have attended more plant closings and going out of business deals than anyone else in the Senate. Dexter Shoe in Dexter and Milo, and I went to Millinocket where the good Senator from Penobscot, Senator Stanley, was employed. I don't wish that on anyone. It's terrible. It's like a society being destroyed. People that have worked in these places for years and years, have their friends, their culture, and their way of doing things. Then it's all gone.

The BETR program is an interesting program. A year or two ago, during one of our many budget reforms, or one of the ones we was trying to patch up, there was a proposal to set the BETR payments ahead. I voted against that. During that time I did a little study on the BETR program and what it actually meant to my area. I was amazed at the number of industries that had taken advantage of it. There are 700 or 800 people that worked for Guilford of Maine. Guilford of Maine gets \$400,000 a year. Kennebec Lumber in the Town of Solon gets about \$70,000 a year. It goes on and on all across the state. At the time, I believe, Great Northern Paper was getting about \$1 million a year out of it. Obviously, I don't think they are getting it now. Burt's Bees is another interesting issue. I've known those folks for a long time. Perhaps I'll save that for another debate, another time.

Last spring, I attended a Pulp and Paper meeting up at the University of Maine. Our Governor was there. It was a real up-beat time. The next morning Georgia Pacific announced they were shutting down about half their operations. That morning I was here at the State House and a bunch of executives from Georgia Pacific came into my office. They wanted to tell me about it. In our conversation I asked them why they were leaving and where they were going. I asked them if they were going to Hong Kong or Taiwan or India or where they were taking the jobs. They told me they were taking them to Louisiana and New York. I asked them why. They told me it was because of a number of things; transportation costs in Maine, high Workers' Comp costs, the taxes in Maine, and believe it or not, the unfriendly business climate in the Maine legislature. Those were exactly the words they used.

This last fall, I took advantage of an opportunity to go down to South Portland and tour National Semiconductor. If you haven't done it, I'd urge you to do it. It's fascinating. This company is expanding. They are hiring people off the street with a high school education. They start them at \$10 an hour. They train them. At the end of a year, they are earning about \$30,000 a year plus good benefits. Again, they told me the same thing at the end of the tour. They said they could compete with the foreign nations, with China and some of the other nations. What they couldn't compete with is the constant gyrations of the Maine legislature. They told me they get \$5 or \$6 million from the BETR program. Every time we debate it, every time we talk about it, they get upset. The corporate people, who run the company, start thinking about going somewhere else.

We shouldn't be talking about this. We shouldn't be doing this. I agree with the Senator from Oxford, Senator Bennett, and the Senator from Penobscot, Senator Stanley. Tax reform should be in the Taxation Committee. I would urge you to vote Ought Not to Pass. Thank you very much, Madame President.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President and members of the Senate. Tax policy is not going to be finally settled in this body in this state. National policy needs to be set first. We are such a small part of a puzzle. If we think we can attract business simply because of what we do in this state that is simply impossible. Let me just point out, for example, our neighbors to the north of us. Under construction right now is a papermill on the north shore of the St. Lawrence in Quebec. The government has given them \$250 million without any ask of anything but on one condition. The condition that they create jobs for the local people. It is their desire not to have unemployment. We don't, and have no ability in this state, to compete with that kind of effort. We don't have the mechanism and we don't have the money. If we could somehow divert the unemployment money that we pay and give it to an industry that wanted to come in, but that is not something we can do in Maine. That requires national policy. I voted for both of the programs under discussion and I will vote to Indefinitely Postpone this bill today. The one mistake, however, we made when we created this legislation is that we didn't tie it to jobs. At some point we need to do that. We need to say, 'If we're going to give you \$1 million, you have to guarantee us jobs for so many years.' We failed to do that when we gave the money.

I need to talk a little bit about Georgia Pacific in Old Town. I was intimately involved with that. I can tell you directly from what the President of Georgia Pacific told me. He's a classmate of mine from Orono. The reasons why he made those decisions were entirely based on costs. Electricity. Transportation. Workers' Comp was not one of them. It was not the cost of salaries that an issue. Those were not the things. When he got the phone call from the Governor, and the Governor indicated that they were willing to try to do something to help, he agreed. As he put it, it was the first time that a Governor was willing to do that and he took him up on his offer. The result is that we have half of the employees back at Georgia Pacific. You know the other part of that puzzle, which we finally did at the time. We dealt with the landfill.

I think we need to remember through all of this that it is fine to talk about the jobs leaving, but we need to look for why. I remember when we had woolen mills throughout this state. As a matter of fact, I was a member of the legislature when Augusta closed. They went to North Carolina and South Carolina. Now they are leaving there and going off shore. Same thing happened to the shoe industry. That will be gone forever. Don't blame Maine for that. Blame national politics. Yes, I can be partisan for just a minute and point out 2.2 million jobs that have been lost in this country in the last three years. One million of them are actually people who are still working, but they are just not working in the United States. Let's remember that and quit throwing stones.

**THE PRESIDENT PRO TEM** : The pending question before the Senate is the motion by the Senator from Penobscot, Senator Stanley to Accept Report "A", Ought Not to Pass. 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 (#247)**

YEAS:            Senators: BENNETT, BLAIS, BROMLEY, BRYANT, CARPENTER, CATHCART, DAVIS, GAGNON, GILMAN, HALL, HATCH, KNEELAND, LAFOUNTAIN, LEMONT, MARTIN, MAYO, MITCHELL, NASS, PENDLETON, ROTUNDO, SAVAGE, SAWYER, SHOREY, STANLEY, TURNER, WOODCOCK, YOUNGBLOOD

NAYS:            Senators: BRENNAN, DAMON, DOUGLASS, EDMONDS, STRIMLING, THE PRESIDENT PRO TEM – SHARON A. TREAT

ABSENT:        Senator: WESTON

EXCUSED:        Senator: DAGGETT

27 Senators having voted in the affirmative and 6 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **STANLEY** of Penobscot to **ACCEPT** Report "A", **OUGHT NOT TO PASS, PREVAILED.**

Sent down for concurrence.

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

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Off Record Remarks

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The Chair laid before the Senate the following Tabled and Later (2/26/04) Assigned matter:

HOUSE REPORTS - from the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Expand Funding and Services to Students of Limited Proficiency in English"

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-701)** (8 members)

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

Tabled - February 26, 2004, by Senator **CATHCART** of Penobscot

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

(In House, February 25, 2004, 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-701).**)

(In Senate, February 26, 2004, Reports **READ.**)

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

**READ ONCE.**

Committee Amendment "A" (H-701) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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The Chair laid before the Senate the following Tabled and Later (2/26/04) Assigned matter:

An Act To Expand the State Fire Marshal's Responsibilities and To Clarify That the Commissioner of Public Safety Will Follow the Maine Administrative Procedure Act when Adopting Certain Rules

H.P. 1253 L.D. 1731  
(C "A" H-681)

Tabled - February 26, 2004, by Senator **TREAT** of Kennebec

Pending - **ENACTMENT**, in concurrence

(In Senate, February 19, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-681)**, in concurrence.)

(In House, February 25, 2004, **PASSED TO BE ENACTED.**)

**PASSED TO BE ENACTED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

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

**PAPERS FROM THE HOUSE**

**House Papers**

**Pursuant to Public Law and Resolve  
Joint Standing Committee on Natural Resources**

The **Joint Standing Committee on Natural Resources**, pursuant to Public Law 2003, chapter 317 and Resolve 2003, chapter 101, section 3 asked leave to report that the accompanying Bill "An Act To Reclassify Certain Downeast Waters"

H.P. 1401 L.D. 1891

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

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

On motion by Senator **MARTIN** of Aroostook, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218, in concurrence.

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**Pursuant to Public Law and Resolve  
Joint Standing Committee on Natural Resources**

The **Joint Standing Committee on Natural Resources**, pursuant to Public Law 2003, chapter 150, section 3, and Resolve 2003, chapter 101, section 3 asked leave to report that the accompanying Bill "An Act To Protect Public Health and the Environment by Providing for a System of Shared Responsibility for the Safe Collection and Recycling of Electronic Waste"

H.P. 1402 L.D. 1892

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

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

On motion by Senator **MARTIN** of Aroostook, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218, in concurrence.

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

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Senate at Ease.

Senate called to order by President Pro Tem **SHARON A. TREAT** of Kennebec County.

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

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Senator **ROTUNDO** of Androscoggin was granted unanimous consent to address the Senate off the Record.

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On motion by Senator **GAGNON** of Kennebec, **ADJOURNED**, to Wednesday, March 3, 2004, at 10:00 in the morning.