

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

In Senate Chamber
Friday
May 23, 2003

Senate called to order by President Beverly C. Daggett of Kennebec County.

Prayer by Senator Betheda G. Edmonds of Cumberland County.

SENATOR EDMONDS: Good morning. I was asked to do the prayer rather quickly this morning. All I could think about was that tonight is Friday night and for observing Jews this is a celebration of Sabbath that begins at sundown. I just wanted to begin with a little bit of Hebrew that I know. Baruch ata adonai, eluhanu melech alom. Blessed art thou, Lord our God. I think I want us to bow our heads in prayer and just remember how many people there are in the world who find God in their own way, who define God in their own terms, and I hope for us today that as we go through our day, we look for the divine in every person we find. Amen.

Reading of the Journal of Thursday, May 22, 2003.

Off Record Remarks

Out of order and under suspension of the Rules, on motion by Senator **TREAT** of Kennebec, the following Joint Order:

S.P. 578

ORDERED, the House concurring, that when the House stands adjourned it does so until Tuesday, May 27, 2003, at 9:00 in the morning and the Senate adjourns until Tuesday, May 27, 2003 at 10:00 in the morning.

READ and PASSED.

Ordered sent down forthwith for concurrence.

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Control County Jail Health Care Expenses"

H.P. 585 L.D. 808
(S "A" S-167 to C "A" H-365)

In Senate, May 16, 2003, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-365) AS AMENDED BY SENATE AMENDMENT "A" (S-167)** thereto, in **NON-CONCURRENCE**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-365)**, in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Bill "An Act to Amend the Membership of the Propane and Natural Gas Board"
S.P. 49 L.D. 126

In Senate, May 20, 2003, **PASSED TO BE ENGROSSED**, in **NON-CONCURRENCE**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-503)**, in **NON-CONCURRENCE**.

On motion by Senator **BROMLEY** of Cumberland, the Senate **RECEDED** and **CONCURRED**.

Non-Concurrent Matter

Bill "An Act To Protect Moderate-value and High-value Bird Habitats"
H.P. 908 L.D. 1234
(C "A" H-372)

In Senate, May 16, 2003, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-372)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-372) AS AMENDED BY HOUSE AMENDMENT "A" (H-506)** thereto, in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Bill "An Act To Provide That Employee Terminations by Any Company That Receives Monetary Benefits from the State Require Just Cause"

H.P. 860 L.D. 1163
(C "A" H-175)

In House, May 12, 2003, **FAILED PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-175)**.

In Senate, May 14, 2003, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-175)**, in **NON-CONCURRENCE**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-175) AND HOUSE AMENDMENT "A" (H-497)**), in **NON-CONCURRENCE**.

Senator **EDMONDS** of Cumberland moved the Senate **RECEDE** and **CONCUR**.

On motion by Senator **BLAIS** of Kennebec, the Senate **RECEDED**.

Senator **TREAT** of Kennebec moved the Senate **CONCUR**.

Senator **BLAIS** of Kennebec moved to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE**.

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

Senator **BLAIS**: Thank you, Madame President, men and women of the Senate. This bill, L.D. 1163, comes to us again. This time with an amendment that would delay by one year the imposition of just cause status for employees of any employer with a workforce of more than 50, and that participates in any of state's economic development incentive programs. The amendment makes no material difference to the underlying problems with this piece of legislation. A business impediment that starts after one year is just as bad as one that starts on the first day. Believe it or not, most employers in our state see their workforce as valuable parts of the whole functional and productive organization. Many employers may pay employees for weeks or months while they are trained in a skill, or until they have learned their job well enough to be productive. Others help their employees increase their educational attainment and subsidize and support lifelong learning. Those employees are protected from unfair dismissal by two factors. First, employees who have mastered their job and demonstrate the desire to grow and learn help a company to be competitive. They make themselves indispensable. Second, a variety of state and federal laws protect employees from dismissal based on age, gender, disability, and a variety of other reasons. There are no such protections for the employer's investment in an employee. Any employee is free to build their skills at one employer, to enjoy any educational or other benefits, and then walk right out the door to start their own business or work someplace else. That is the way it should be. It is the basis of a free market.

Why should an employer not have the same rights, providing they respect the federal and Maine Human Rights Acts, the Americans with Disabilities Act, prohibitions against genetic discrimination, the National Labor Relations Act, and the many other laws to protect genuine employee rights? Why should employers not be able to freely sever their relationship with an employee that can't or won't do their job? Why should an employer face the prospect of a costly legal battle to dismiss an employee when that employee is free to take their training and skills and shop them on the open market with no notice to the employer, whatsoever? I guarantee you that is the question that every employer we are trying to entice to our state will be asking themselves if L.D. 1163 passes.

For me, L.D. 1163, in all its various permutations, has now become symbolic of the deep and disturbing contradictions regarding business enterprise that permeates our state. It reflects, on the one hand, the notion that business, especially those who employ more than 50 employees, are by nature exploitative and in ruthless pursuit of profit at the expense of employees. Do those of you who attended the various economic tours and looked into the faces of business owners and managers really believe that is the case? My experience with these people is that they are not hottie, Daddy Warbucks capitalists, chomping on cigars. They are people just like you and I. Many are desperately trying to figure out how to stay in business, let alone glean a profit from their efforts. If we allow ourselves to believe the stereotype, the negative vision of business people, it's then easy to think of economic incentives as corporate welfare. Tax money extracted from hard working people of this state being given to greedy employers. It is then natural to conclude that, if we are to give them incentives, we should extract something in return.

But this is where the contradiction begins. We put the incentives in place because the thing we want is for business to come here and create good paying jobs, to generate income for our state, and to increase the number of people on our tax roles. But that is not enough for some. Once we have these new businesses in our grip, we forget the investment they make in our state. With legislation like L.D. 1163, we move the bar. We increase costs and we make the widget from Maine just that much more expensive than the widget from Kentucky or Massachusetts. Orders shrink, lay-offs occur. It's a vicious cycle. We increase impediments that force business out, and then we spend money encouraging others to replace the ones that have left. Once they have spent millions on a new plant or invested in a workforce, we continue with the impediments. I'm doing my best here to refrain from repeating the rhetoric and statistics about how unfavorably our great state compares to our region and our nation in its ability to be competitive. I know you've heard it before. My hope is that we can look deeper, to the root causes, and to seek real solutions to achieve what we all want, a prosperous Maine economy that works for everyone, employer and employee.

We've lost the middle ground. The Chief Executive of this state is desperately trying to get us back to that middle ground, to build an economy that works for everyone. In order for that to work, for Pine Tree Zones to work, we must refrain from dropping poison pills like L.D. 1163 into the mix. I'm asking you today to begin to break the vicious cycle, the vortex between the relationship of employer-employee, from which it is descended, largely because of the actions we take here in this building. Every impediment we place on Maine business, every impediment that makes it harder to compete with the rest of the nation, and even our region, drives good paying jobs from our state. Our response, spend taxpayer money. Pass bond issues that put shovels in the ground. Create special tax incentives to counteract the impediments. It goes around and around and around. More impediments result in a poor business climate. Job loss leads to greater clarion calls for bold solutions that invariably mean more state money to entice business to stay or come. Now, with legislation like L.D. 1163, which is before us at this very moment, the vicious cycle has reach full

maturity. The monster we have created now begins to consume itself. At the same time this body has demonstrated support for a vast new program of tax incentives to entice more business to our state, we here will consider adding yet another impediment at the very same moment, in total contradiction to the goal of the very incentive program that has already received overwhelming support from this body. How long are we going to go on this way?

Same Senator requested a Roll Call.

On motion by Senator **TREAT** of Kennebec, **TABLED** until Later in Today's Session, pending the motion by Senator **BLAIS** of Kennebec to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE**. (Roll Call Requested)

COMMUNICATIONS

The Following Communication:

S.P. 577

STATE OF MAINE
121ST MAINE LEGISLATURE

May 22, 2003

Sen. John L. Martin
Senate Chair, Joint Standing Committee on
Natural Resources
Rep. Theodore Koffman
House Chair, Joint Standing Committee on
Natural Resources
121st Legislature
Augusta, ME 04333

Dear Senator Martin and Representative Koffman:

Please be advised that pursuant to Title 3 M.R.S.A. §154, Governor John E. Baldacci has withdrawn the nomination of Andrew A. Cadot of Freeport for appointment to the Board of Environmental Protection.

Sincerely,

S/Beverly C. Daggett
President of the Senate

S/Patrick Colwell
Speaker of the House

READ and **REFERRED** to the Committee on **NATURAL RESOURCES**.

Sent down for concurrence.

The Following Communication:

S.C. 249

121ST LEGISLATURE
COMMITTEE ON JUDICIARY

May 20, 2003

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 Judiciary has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1606 An Act To Amend the Adult Protective Services Act

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

Sincerely,

S/Sen. Peggy A. Pendleton
Senate Chair

S/Rep. William S. Norbert
House Chair

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

ORDERS

Joint Resolution

On motion by Senator **MARTIN** of Aroostook (Cosponsored by Senators: DAVIS of Piscataquis, ROTUNDO of Androscoggin, SAVAGE of Knox, Representatives: COLLINS of Wells, MURPHY of Kennebunk), the following Joint Resolution:

S.P. 576

JOINT RESOLUTION MEMORIALIZING MAINE'S CONGRESSIONAL DELEGATION TO URGE THE FEDERAL SURFACE TRANSPORTATION BOARD TO CANCEL CANADIAN NATIONAL RAILWAY COMPANY TRACKAGE RIGHTS

WE, your Memorialists, the Members of the One Hundred and Twenty-first Legislature of the State of Maine now assembled in the First Regular Session, most respectfully present and petition Maine's Congressional Delegation, as follows:

WHEREAS, the role of freight rail transportation in Maine is an important one and has raised many policy questions in recent years, which are especially important in view of the bankruptcy proceedings of the Bangor and Aroostook Railroad Company; and

WHEREAS, the 120th Legislature established in Resolve 2001, chapter 120 the Task Force on Rail Transportation, consisting of 13 members, 8 of whom were Legislators and 5 of whom were members appointed for their expertise in various aspects of rail transportation; and

WHEREAS, the task force monitored the bankruptcy proceedings of the Bangor and Aroostook Railroad Company, which in its waning days sold a branch of rail line to the Canadian National Railway Company to raise needed funds; and

WHEREAS, the bankruptcy trustee has rejected the sales contract, but permission of the federal Surface Transportation Board is necessary to cancel the Canadian National Railway Company's trackage rights; and

WHEREAS, the assets of the Bangor and Aroostook Railroad Company are being acquired by Montreal, Maine and Atlantic Railway, which has the resources and expertise to improve rail freight surface to the northern Maine region; now, therefore, be it

RESOLVED: That We, your Memorialists, take this opportunity to request Maine's Congressional Delegation to urge the federal Surface Transportation Board to cancel the Canadian National Railway Company's trackage rights so that Montreal, Maine and Atlantic Railway can control the branch lines in question, which will benefit all of northern Maine; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the members of Maine's Congressional Delegation and to the federal Surface Transportation Board.

READ and **ADOPTED.**

Sent down for concurrence.

Off Record Remarks

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Promote Stewardship of Forest Resources"

H.P. 1194 L.D. 1616

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-512)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-512)**.

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

READ ONCE.

Committee Amendment "A" (H-512) **READ** and **ADOPTED**, in concurrence.

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

Ordered sent forthwith to the Engrossing Division.

The Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Change Certain Educational Requirements and Make Title Changes for Licensed Social Workers"

H.P. 1162 L.D. 1589

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-454)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-454)**.

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

READ ONCE.

Committee Amendment "A" (H-454) **READ**.

On motion by Senator **BROMLEY** of Cumberland, Senate Amendment "A" (S-232) to Committee Amendment "A" (H-454) **READ**.

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

Senator **BROMLEY:** Thank you, Madame President. The committee amendment was a unanimous report. The committee worked very hard to establish some guidelines on consultation and other requirements for proper supervision of licensed social workers. What we forgot to do was strike the old language that said they can do whatever they want. This amendment takes care of that. I hope you will support it. Thank you.

On further motion by same Senator, Senate Amendment "A" (S-232) to Committee Amendment "A" (H-454) **ADOPTED**.

Committee Amendment "A" (H-454) as Amended by Senate Amendment "A" (S-232) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-454) AS AMENDED BY SENATE AMENDMENT "A" (S-232)** thereto, in **NON-CONCURRENCE**.

Sent down for concurrence.

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Create a Uniform Approach to the Determination of Child Support When Parents Provide Substantially Equal Care for Children" H.P. 189 L.D. 234

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-499)**.

Signed:

Senators:

PENDLETON of Cumberland
CATHCART of Penobscot
WOODCOCK of Franklin

Representatives:

NORBERT of Portland
BULL of Freeport
SIMPSON of Auburn
BENNETT of Caribou
GERZOFISKY of Brunswick
MILLS of Farmington
SHERMAN of Hodgdon
CARR of Lincoln
BRYANT-DESCHENES of Turner

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-500)**.

Signed:

Representative:

DUPREY of Hampden

(Representative LORING of the Penobscot Nation - of the House - supports the Minority **Ought to Pass as Amended by Committee Amendment "B" (H-500)** Report.)

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-499)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-499)**.

Reports **READ**.

On motion by Senator **PENDLETON** of Penobscot, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-499)** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-499) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Amend the Abortion Reporting Laws To Eliminate Immunity for a Physician Who Reports Data on an Abortion"
H.P. 242 L.D. 299

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

PENDLETON of Cumberland
CATHCART of Penobscot

Representatives:

NORBERT of Portland
BULL of Freeport
SIMPSON of Auburn
RICHARDSON of Brunswick
BENNETT of Caribou
MILLS of Farmington
SHERMAN of Hodgdon

(Representative LORING of the Penobscot Nation - of the House - supports the Majority **Ought Not to Pass** Report.)

The Minority of the same Committee on the same subject reported that the same **Ought To Pass**.

Signed:

Senator:

WOODCOCK of Franklin

Representatives:

CARR of Lincoln
DUPREY of Hampden
BRYANT-DESCHENES of Turner

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

Senator **PENDLETON** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#92)

YEAS: Senators: BENNETT, BRENNAN, BROMLEY, BRYANT, CARPENTER,
CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON,
HALL, HATCH, LAFOUNTAIN, MAYO, MITCHELL,

PENDLETON, ROTUNDO, STRIMLING, TREAT, TURNER,
YOUNGBLOOD, THE PRESIDENT - BEVERLY C. DAGGETT

NAYS: Senators: BLAIS, DAVIS, GILMAN, KNEELAND, MARTIN, NASS,
SAVAGE, SAWYER, SHOREY, STANLEY, WESTON,
WOODCOCK

ABSENT: Senator: LEMONT

22 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **PENDLETON** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Require the Payment of Certain Costs Incurred by a Prevailing Party in Court Proceedings by or against Maine Revenue Services"

H.P. 581 L.D. 782

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

PENDLETON of Cumberland
CATHCART of Penobscot
WOODCOCK of Franklin

Representatives:

NORBERT of Portland
BULL of Freeport
SIMPSON of Auburn
GERZOFISKY of Brunswick
BENNETT of Caribou
MILLS of Farmington
BRYANT-DESCHENES of Turner

(Representative LORING of the Penobscot Nation - of the House - supports the Majority **Ought Not to Pass** Report.)

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-498)**.

Signed:

Representatives:

SHERMAN of Hodgdon
CARR of Lincoln
DUPREY of Hampden

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

Senator **PENDLETON** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

At the request of Senator **BENNETT** of Oxford a Division was had. 20 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **PENDLETON**

PENDLETON, ROTUNDO, STRIMLING, TREAT, TURNER, THE
PRESIDENT - BEVERLY C. DAGGETT

NAYS: Senators: BLAIS, DAVIS, GILMAN, KNEELAND, MARTIN, NASS,
SAVAGE, SAWYER, SHOREY, STANLEY, WESTON,
WOODCOCK, YOUNGBLOOD

ABSENT: Senator: LEMONT

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **PENDLETON** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Protect the Mental Health of Women and Girls"

H.P. 805 L.D. 1102

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

PENDLETON of Cumberland
CATHCART of Penobscot

Representatives:

NORBERT of Portland
BULL of Freeport
SIMPSON of Auburn
RICHARDSON of Brunswick
BENNETT of Caribou
MILLS of Farmington
SHERMAN of Hodgdon

(Representative LORING of the Penobscot Nation - of the House - supports the Majority **Ought Not to Pass** Report.)

The Minority of the same Committee on the same subject reported that the same **Ought To Pass**.
Signed:

Senator:

WOODCOCK of Franklin

Representatives:

CARR of Lincoln
DUPREY of Hampden
BRYANT-DESCHENES of Turner

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

Senator **PENDLETON** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#94)

YEAS: Senators: BENNETT, BLAIS, BRENNAN, BROMLEY, BRYANT, CARPENTER, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MAYO, MITCHELL, NASS, PENDLETON, ROTUNDO, STRIMLING, TREAT, TURNER, YOUNGBLOOD, THE PRESIDENT - BEVERLY C. DAGGETT

NAYS: Senators: DAVIS, GILMAN, KNEELAND, MARTIN, SAVAGE, SAWYER, SHOREY, STANLEY, WESTON, WOODCOCK

ABSENT: Senator: LEMONT

24 Senators having voted in the affirmative and 10 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **PENDLETON** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Amend the Laws Governing Abortion Reporting"

H.P. 832 L.D. 1129

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

PENDLETON of Cumberland
CATHCART of Penobscot

Representatives:

NORBERT of Portland
BULL of Freeport
SIMPSON of Auburn
RICHARDSON of Brunswick
BENNETT of Caribou
MILLS of Farmington
BRYANT-DESCHENES of Turner

(Representative LORING of the Penobscot Nation - of the House - supports the Majority **Ought Not to Pass** Report.)

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-436)**.

Signed:

Senator:

WOODCOCK of Franklin

Representatives:

SHERMAN of Hodgdon
CARR of Lincoln
DUPREY of Hampden

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

Senator **PENDLETON** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#95)

YEAS: Senators: BENNETT, BRENNAN, BROMLEY, BRYANT, CARPENTER, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MAYO, MITCHELL, PENDLETON, ROTUNDO, STRIMLING, TREAT, TURNER, THE PRESIDENT - BEVERLY C. DAGGETT

NAYS: Senators: BLAIS, DAVIS, GILMAN, KNEELAND, MARTIN, NASS, SAVAGE, SAWYER, SHOREY, STANLEY, WESTON, WOODCOCK, YOUNGBLOOD

ABSENT: Senator: LEMONT

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **PENDLETON** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Amend the Laws Relating to Medical Certification of the Cause of Death and the Medical Examiner Act"

H.P. 885 L.D. 1211

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-493)**.

Signed:

Senators:

PENDLETON of Cumberland
CATHCART of Penobscot

Representatives:

NORBERT of Portland
BULL of Freeport
SIMPSON of Auburn
RICHARDSON of Brunswick
BENNETT of Caribou
MILLS of Farmington
BRYANT-DESCHENES of Turner

The Minority of the same Committee on the same subject reported that the same **Ought To Pass**.

Signed:

Senator:

WOODCOCK of Franklin

Representatives:

SHERMAN of Hodgdon
CARR of Lincoln

(Representative LORING of the Penobscot Nation - of the House - supports the Minority **Ought to Pass** Report.)

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-493)**.

Reports **READ**.

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#96)

YEAS: Senators: BENNETT, BLAIS, BRENNAN, BROMLEY, BRYANT,
 CARPENTER, CATHCART, DAMON, DOUGLASS, EDMONDS,
 GAGNON, HALL, HATCH, KNEELAND, LAFOUNTAIN,
 MARTIN, MAYO, MITCHELL, NASS, PENDLETON, ROTUNDO,
 SAWYER, STANLEY, STRIMLING, TREAT, TURNER,
 YOUNGBLOOD, THE PRESIDENT - BEVERLY C. DAGGETT
NAYS: Senators: DAVIS, GILMAN, SAVAGE, SHOREY, WESTON, WOODCOCK
ABSENT: Senator: LEMONT

28 Senators having voted in the affirmative and 6 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **PENDLETON** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-493) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Prohibit a Maine Clean Election Act Candidate from Running for More than One Office"
H.P. 818 L.D. 1115

Reported that the same **Ought Not to Pass**.

Signed:

Senators:
GAGNON of Kennebec
LEMONT of York
MAYO of Sagadahoc

Representatives:

CLARK of Millinocket
GLYNN of South Portland
HOTHAM of Dixfield
BROWN of South Berwick
MOORE of Standish
PATRICK of Rumford
BLANCHETTE of Bangor
CANAVAN of Waterville
JENNINGS of Leeds

The Minority of the same Committee on the same subject reported that the same **Ought To Pass**.

Signed:

Representative:

LANDRY of Sanford

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

On motion by Senator **GAGNON** of Kennebec, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

Divided Report

Nine members of the Committee on **NATURAL RESOURCES** on Bill "An Act To Ensure the Safety of Children Touring Hazardous Facilities"

H.P. 510 L.D. 693

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-492)**.

Signed:

Senators:

MARTIN of Aroostook
EDMONDS of Cumberland

Representatives:

KOFFMAN of Bar Harbor
TWOMEY of Biddeford
HUTTON of Bowdoinham
MAKAS of Lewiston
TOBIN of Windham
JOY of Crystal
SAVIELLO of Wilton

Two members of the same Committee on the same subject reported in Report "B" that the same **Ought Not to Pass**.

Signed:

Senator:

SAWYER of Penobscot

Representative:

ANNIS of Dover-Foxcroft

One member of the same Committee on the same subject reported in Report "C" that the same be **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**.

Signed:

Representative:

DAIGLE of Arundel

Comes from the House with Report "A", **OUGHT TO PASS AS AMENDED READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-492)**.

Reports **READ**.

Senator **MARTIN** of Aroostook moved the Senate **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED**, in concurrence.

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

Senator **SAWYER:** Thank you, Madame President, ladies and gentlemen of the Senate. It is with great difficulty that I rise in opposition to the chair of the Natural Resources committee, with all sincerity, because each member of that committee consistently has felt a fair opportunity to make their case before the committee. I am sensitive to second-guessing the report. However, I point out that this bill singles out four locations in the State of Maine for extraordinary measures. In so doing, what it has done is fail to look at the broader health issues affecting Maine children. The four facilities in question are the four incinerators in the state. They are the MERC facility in Biddeford, the RWS facility in Portland, the MMWAC facility in Lewiston, and the PERC facility in Bangor. We had testimony that both the PERC facility in Bangor and the MMWAC facility in Lewiston made great use of school children touring those facilities to learn about the waste that we all throw away. I would ask that you vote against the motion before you. I would ask, in fact, that we go on to approve Report "C", which is reference to the more appropriate committee looking at what Maine school children need to know, what protections should they have when they tour any number of potentially hazardous locations, whether its Jackson Laboratory in Bar Harbor or BIW in Bath. This is truly garbage legislation. Thank you.

Off Record Remarks

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

Senator **MARTIN:** Thank you very much, Madame President and members of the Senate. I would not want to relegate to any other committee the misery that we went through with this piece of legislation. We debated this at great length and I hate to say how many times. We finally came to the conclusion that we would deal specifically with the four incinerators that have been discussed at this point in time and take a look at what would transpire with what we are doing. I do think that the remarks of the good Senator from Penobscot, Senator Sawyer, has merit in terms of other facilities in the state, but at this time we decided that this would be the more appropriate way to approach it. So I would urge you to vote to accept Report "A".

Senator **WOODCOCK** of Franklin requested a Division.

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

Senator **BENNETT** of Oxford moved to **COMMIT** the Bill and accompanying papers to the Committee on **EDUCATION AND CULTURAL AFFAIRS**, in **NON-CONCURRENCE**.

At the request of Senator **MARTIN** of Aroostook a division was had. 16 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion by Senator **BENNETT** of Oxford to **COMMIT** the Bill and accompanying papers to the Committee on **EDUCATION AND CULTURAL AFFAIRS**, in **NON-CONCURRENCE**, **FAILED**.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#97)

YEAS: Senators: BENNETT, BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, KNEELAND, LAFOUNTAIN, MARTIN, MAYO, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT, YOUNGBLOOD, THE PRESIDENT - BEVERLY C. DAGGETT

NAYS: Senators: BLAIS, CARPENTER, DAVIS, GILMAN, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK

ABSENT: Senator: LEMONT

22 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 1 Senator being absent, the motion Senator **MARTIN** of Aroostook to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED**, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-492) **READ** and **ADOPTED**, in concurrence.

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

Senate

Ought to Pass As Amended

Senator STRIMLING for the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act to Revise the Reimbursement by the County Jail Prisoner Support and Community Corrections Fund and To Provide Additional Support to County Jails"

S.P. 390 L.D. 1186

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-227)**.

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

READ ONCE.

Committee Amendment "A" (S-227) **READ**.

At the request of Senator **BENNETT** of Oxford a Division was had. 21 Senators having voted in the affirmative and 12 Senators having voted in the negative, Committee Amendment "A" (S-227) **ADOPTED**.

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

Sent down for concurrence.

Senator EDMONDS for the Committee on **LABOR** on Bill "An Act To Provide Group Health Insurance Coverage to Maine Citizens Eligible for Assistance Under the Federal Trade Adjustment Assistance Reform Act of 2002" (EMERGENCY)

S.P. 536 L.D. 1576

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-228)**.

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

READ ONCE.

Committee Amendment "A" (S-228) **READ** and **ADOPTED**.

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

Sent down for concurrence.

Off Record Remarks

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Provide Fair Hearing Procedures in the Department of Human Services" (EMERGENCY)
S.P. 444 L.D. 1356

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-233)**.

Signed:

Senator:

BRENNAN of Cumberland

Representatives:

EARLE of Damariscotta

CRAVEN of Lewiston

SHIELDS of Auburn

KANE of Saco

WALCOTT of Lewiston

CAMPBELL of Newfield

LEWIN of Eliot

LAVERRIERE-BOUCHER of Biddeford

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

Signed:

Senator:

WESTON of Waldo

Representative:

CURLEY of Scarborough

Reports **READ**.

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

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Weston.

Senator **WESTON:** Thank you, Madame President, men and women of the Senate. Everyone makes mistakes and there is one on this bill. I'm not sure whose it is, but I really should not be on that side and I just wanted to put that on the record.

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

READ ONCE.

Committee Amendment "A" (S-233) **READ** and **ADOPTED**.

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

Sent down for concurrence.

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Prohibit the Secretary of State From Endorsing Political Candidates"

S.P. 76 L.D. 153

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

GAGNON of Kennebec
MAYO of Sagadahoc

Representatives:

CLARK of Millinocket
PATRICK of Rumford
BLANCHETTE of Bangor
CANAVAN of Waterville
JENNINGS of Leeds
LANDRY of Sanford

The Minority of the same Committee on the same subject reported that the same **Ought To Pass**.

Signed:

Senator:

LEMONT of York

Representatives:

GLYNN of South Portland
HOTHAM of Dixfield
BROWN of South Berwick
MOORE of Standish

Reports **READ**.

Senator **GAGNON** of Kennebec moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** 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 NOT TO PASS** Report.

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act Concerning Political Action Committees and Party Committee Activities Prior to Elections"

S.P. 91 L.D. 232

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-223)**.

Signed:

Senators:

LEMONT of York
MAYO of Sagadahoc

Representatives:

GLYNN of South Portland
HOTHAM of Dixfield
BROWN of South Berwick
MOORE of Standish
BLANCHETTE of Bangor
LANDRY of Sanford
PATRICK of Rumford
JENNINGS of Leeds
CANAVAN of Waterville

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

Signed:

Senator:

GAGNON of Kennebec

Representative:

CLARK of Millinocket

Reports **READ**.

On motion by Senator **GAGNON** of Kennebec, the Minority **OUGHT NOT TO PASS** Report **ACCEPTED**.

Sent down for concurrence.

ENACTORS

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

Act

An Act To Improve the Clean Election Option for Gubernatorial Candidates
H.P. 964 L.D. 1310
(C "A" H-450)

On motion by Senator **GAGNON** of Kennebec, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence.

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the following Tabled and Later (5/20/03) Assigned matter:

Resolve, Allowing Christy Reposa and Michaela Corbin-Bumford to Sue the State
H.P. 536 L.D. 730
(C "A" H-356)

Tabled - May 20, 2003, by Senator **GAGNON** of Kennebec

Pending - **FURTHER CONSIDERATION**

(In Senate, May 15, 2003, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-356)**, in **NON-CONCURRENCE**.)

(In House, May 19, 2003, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-356) AS AMENDED BY HOUSE AMENDMENT "A" (H-383)** thereto, in **NON-CONCURRENCE**.)

Senator **GAGNON** of Kennebec moved to place on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**, in **NON-CONCURRENCE**.

Senator **BENNETT** of Oxford rose to a **POINT OF ORDER**, the motion to place on the **SPECIAL APPROPRIATIONS TABLE** having not been made by a member of the Appropriations and Financial Affairs Committee.

Senator **GAGNON** of Kennebec requested and received leave of the Senate to withdraw his motion to place on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**, in **NON-CONCURRENCE**.

On motion by Senator **TREAT** of Kennebec, the Senate **RECEDED** and **CONCURRED**.

The Chair laid before the Senate the following Tabled and Later (5/21/03) Assigned matter:

SENATE REPORTS -from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Change the Name of the Augusta Mental Health Institute to 'Riverview Psychiatric Center'"
S.P. 525 L.D. 1562

Report "A" - **Ought to Pass as Amended by Committee Amendment "A" (S-208)** (5 members)

Report "B" - **Ought to Pass as Amended by Committee Amendment "B" (S-209)** (2 members)

Report "C" - **Ought to Pass as Amended by Committee Amendment "C" (S-210)** (1 member)

Tabled - May 21, 2003, by Senator **BRENNAN** of Cumberland

Pending - motion by same Senator to **ACCEPT** Report "C", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "C" (S-210)**

(In Senate, May 21, 2003, Reports **READ**.)

On motion by Senator **BRENNAN** of Cumberland, Report "C", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "C" (S-210)** **ACCEPTED**.

READ ONCE.

Committee Amendment "C" (S-210) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "C" (S-210)**

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/21/03) Assigned matter:

An Act To Clarify When Notice is Effective to Terminate a Tenancy at Will
H.P. 729 L.D. 1008

Tabled - May 21, 2003, by Senator **STRIMLING** of Cumberland

Pending - **ENACTMENT**, in concurrence

(In Senate, May 19, 2003, **PASSED TO BE ENGROSSED**, in concurrence.)

(In House, May 20, 2003, **PASSED TO BE ENACTED**.)

At the request of Senator **WOODCOCK** of Franklin a Division was had. 19 Senators having voted in the affirmative and 15 Senators having voted in the negative, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

The Chair laid before the Senate the following Tabled and Later (5/22/03) Assigned matter:

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Require the Net Proceeds from the Sale of a Foreclosed Property To Be Returned to the Former Owner"
H.P. 694 L.D. 937

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

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-470)** (5 members)

Tabled - May 22, 2003, by Senator **STANLEY** of Penobscot

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

(In House, May 21, 2003, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 22, 2003, Reports **READ**.)

On motion by Senator **STANLEY** of Penobscot, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

(See action later today.)

The Chair laid before the Senate the following Tabled and Later (5/22/03) Assigned matter:

HOUSE REPORT - from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Establish a Moratorium on Genetically Engineered Plants"
H.P. 893 L.D. 1219

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-376)**

Tabled - May 22, 2003, by Senator **GAGNON** of Kennebec

Pending - **ACCEPTANCE OF REPORT**, in concurrence

(In House, May 15, 2003, the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-376)**.)

(In Senate, May 16, 2003, Report **READ**.)

Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-376) **READ.**

On motion by Senator **KNEELAND** of Aroostook, Senate Amendment "A" (S-229) to Committee Amendment "A" (H-376) **READ.**

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

Senator **KNEELAND:** Thank you, Madame President and members of the Senate. This amendment only changes the committee appointments. The whole committee was on the committee for looking at this bill and it leaves now just two Senators, which were elected by the President; three members of the House of Representatives, who will be appointed by the Speaker of the House; and a member of the Bio-Tech Board. Thank you.

On further motion by same Senator, Senate Amendment "A" (S-229) to Committee Amendment "A" (H-376) **ADOPTED.**

Committee Amendment "A" (H-376) as Amended by Senate Amendment "A" (S-229) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-376) AS AMENDED BY SENATE AMENDMENT "A" (S-229)** thereto, in **NON-CONCURRENCE.**

Sent down for concurrence.

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later (5/22/03) Assigned matter:

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Ensure Fairness in Elections"

H.P. 940 L.D. 1268

Majority - **Ought Not to Pass** (11 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-438)** (2 members)

Tabled - May 22, 2003, by Senator **BENNETT** of Oxford

Pending - motion by Senator **GAGNON** of Kennebec to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence

(In House, May 21, 2003, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED.**)

(In Senate, May 22, 2003, Reports **READ.**)

On motion by Senator **GAGNON** of Kennebec, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

The Chair laid before the Senate the following Tabled and Later (5/22/03) Assigned matter:

HOUSE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Require Disclosure of Retail Prescription Drug Prices"

Majority - **Ought to Pass as Amended by Committee Amendment "B" (H-463)** (8 members)

Minority - **Ought Not to Pass** (4 members)

Tabled - May 22, 2003, by Senator **BRENNAN** of Cumberland

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

(In House, May 21, 2003, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-463).**)

(In Senate, May 22, 2003, Reports **READ.**)

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Weston.

Senator **WESTON:** Thank you, Madame President, men and women of the Senate. This bill has been improved greatly from when we first saw this. I have one concern that I would like to share with you. What we are asking now are for pharmacies, both large and small, to make sure the client has in his possession what will be called the usual and customary price for that particular prescription. It will be on his receipt. I am very much in favor of disclosure. We talked about disclosure yesterday. The information that is disclosed needs to be accurate enough to be helpful. What will be on the prescription bottle will be the usual and customary price. Not always, but there probably could be a great difference between what that particular insurance is paying for that particular medicine. You have some information, it's not accurate, you can't always use that to have a fair description of what your insurance company is paying and what you are paying as a co-pay. You don't get the full picture. If the information would be so that you could know exactly what your insurance company is paying, what you are paying for the difference, and what it would be otherwise, then you would be able to see the advantages. Just getting the usual and customary price is not going to help. Thank you.

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

Senator **BRENNAN:** Thank you, Madame President, men and women of the Senate. I agree with the good Senator from Waldo, Senator Weston. The committee did spend a lot of time on this bill. We did work the bill. We paid very close attention to what was originally put forward in the bill. We have refined it to a point where the information that will be provided will, in fact, be helpful to consumers.

I will also point out that we pushed the effective date for this until 2006 so that the pharmacies would not have any additional costs. There are actually two parts to the amended version of this that says that the next time a pharmacy updates their software the need to include this price or by 2006. So there is ample opportunity for the pharmacies to make this transition with no cost to them and to provide this information to consumers.

We think this is a good bill and I urge you to support it. Thank you.

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

Senator **MAYO:** Thank you, Madame President, ladies and gentlemen of the Senate. I, too, rise this morning in support of L.D. 102. I would draw the attention of this body to the fact that at least one supplier of drugs, Hannaford, does do this, has been doing it, and has experienced no problem with doing this type of thing. It does give the consumer at least the benefit of some information. Hopefully, as the result of having that information, the consumer will make a better-informed choice.

In talking with my own druggist, who runs an independent pharmacy, I have asked him on many occasions whether people ever inquire if their drug is being paid for by an insurance company and what the actual price is. What is the insurance company paying? He said it is seldom that this question is ever raised. I think that is good information for the consumer to have. I wish that the committee had gone beyond the UCP, but this is at least a start in the right direction for consumer education. I hope that this body would accept the majority Ought to Pass as Amended report.

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

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

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

THE PRESIDENT: The Senator may pose his question.

Senator **SHOREY:** Thank you, Madame President. I'm sorry, I may be a little slow here, but I still don't quite understand what this will do. I didn't sit in the committee hearings or anything. What I am gathering is that it is going to have a retail price on the label. This label would have a customary retail price, from my understanding, and would also have what the retail price that insurance company is paying. If not, how would the person that is buying this know what they are comparing it to? My prescriptions that I buy have a co-pay on there. So this could have the co-pay and a customary price. What can I do with that information? Am I going to go to another pharmacy and say, 'I'd like this same prescription filled.' I'd get that prescription filled there and look on their label to see what the customary retail price is. I guess it would be the same on both labels. The co-pay would be the same on both labels. So there is really nothing there for me to compare it to. If I am correct in this assumption, this bill does absolutely nothing but put another burden on a small business. I don't quite understand. Could somebody answer that for me? I'd appreciate it.

THE PRESIDENT: The Senator from Washington, Senator Shorey poses a series of questions through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Brennan.

Senator **BRENNAN:** Thank you, Madame President, men and women of the Senate. This would not include the price that is paid by the insurance company. It is the usual and customary price, the retail price, is the price that would be printed.

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

Senator **TURNER:** Thank you, Madame President. May I pose a couple of questions through the chair?

THE PRESIDENT: The Senator may pose his question.

Senator **TURNER:** I apologize if I missed something. I did step out of the chamber while you were discussing this bill. Presumably, the information is on the label that goes on the prescription drug or it is on the receipt that you get or on both? I'm getting a nod from the Senator from Cumberland, Senator Brennan. So I think I have that question answered, Madame President.

If I could ask my second question, there has to be some expense associated with this. I'm assuming that the state is not paying for that expense. The retail pharmacist will somehow have to come up with some means of adding this information so it can be shared with the consumer.

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

Senator **BRENNAN:** Thank you, Madame President, men and women of the Senate. As I mentioned earlier, when we amended the bill we put the effective date of 2006 so that it would allow the pharmacies time to make any adjustments in the course of that time to their software so they would not incur any cost. At this particular point, the pharmacies involved did not show any objections to the way that we amended the bill because they didn't believe that it would incur any additional cost. It was also pointed out by the good Senator from Sagadahoc, Senator Mayo, that there are pharmacies that currently engage in this practice and don't see it as overly burdensome or a cost that they are unwilling to undertake at this point.

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Weston.

Senator **WESTON**: Thank you, Madame President, men and women of the Senate. Let me just make a clarification. The original bill did ask for this information to be on the label, but there was no room. There is too much information. It would be in such tiny print that even I couldn't read it. We amended this bill to say that it has to be on the receipt.

Again, the bottom line is that if we are making our large and small pharmacies, who are going to have to add this to their software to make this change, and it is not relevant information that can be a benefit to that consumer, why are we doing it?

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

Senator **TREAT**: Thank you, Madame President, men and women of the Senate. This is a good bill. It is not the biggest bill that we will be dealing with to address prescription drug costs. We have two other measures that you will have an opportunity to vote on that will definitely make a difference in terms of reducing prescription drug costs. However, it is a measure that I think will make a difference and make some progress towards that goal. The reason is this, there are many medications that are very similar to each other but they are priced differently. Some of them are generic, some of them are newer versions of non-generic medication, or simply put out by different drug companies. The fact of the matter is that these are priced differently and that most people who pay simply a co-pay have no idea what the actual cost of the medication is.

I'll just tell you a little story, something that happened to me recently with a doctor. I called in to have a prescription refilled. I didn't get my doctor because she wasn't there. Another doctor was called to the phone. He said, 'well, we have this new thing,' it was something very common, an antibiotic of some sort. He said, 'we've got this new drug and you only have to take it once a day instead of twice a day. Maybe I'll prescribe that for you.' I asked the question, because I knew that what I was paying for was only the generic medication and pretty inexpensive, not only for the co-pay but also for the regular price. I said, 'how expensive is that medication? If it's just a matter of convenience, I'm not sure I want to putting that burden on the insurance company that is going to raise my insurance costs.' It turned out that it was much more expensive medication. The fact of the matter is that many doctors don't even know what the actual price of these medications are.

This is a way of putting information out in the marketplace. We are working today, and every day, the last several weeks on health care legislation that our Governor has put forward to us. That legislation includes many measures that address issues of cost containment and the fact that health care costs have been going up dramatically from year to year in double digit numbers. Prescription drug costs are a very big part of that cost increase. This is a small measure, but it is something that individual consumers can use to take some control over the amount that they, themselves, are burdening the health care system. There are choices out there. We don't have very much information about what those choices are. We see the glossy ads but there are no prices attached to those glossy ads. This is a small way of starting to provide that information to the public. I do think it will make a difference. For that reason, I am supporting and I hope you will be too.

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

Senator **SHOREY**: Thank you, Madame President, men and women of the Senate. That was a great story that the Senator from Kennebec, Senator Treat, told us and I strongly encourage everyone to inquire about generics as they get their prescriptions filled and find out if there is a way that we can help. But that has absolutely nothing to do with this bill. I'm still confused. Is it going to list generic alternatives on the label or the receipt and say what their cost would have been? No. What this bill says is that they are going to put the cost on there. It provides absolutely no information for comparison. It provides no information at all what comparable drugs might be. Again, I don't see the worth in this bill other than a step towards something else, which I don't know where it's going. I will not be supporting it.

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

Senator **TURNER**: Thank you, Madame President, ladies and gentlemen of the Senate. It's been a while since I've put my hands down inside code and modified software. The last I knew, it wasn't done free. There was always a cost associated with it. So I am curious as to how, all of a sudden, we can be making changes to systems to accommodate the wishes of this bill and not have someone incur a cost. I also wonder about the receipt itself. The preponderance of those who buy our drugs today, many of whom are my age or older, may

have trouble reading very fine print. I'm also curious as to whether or not the font has been specified on the receipt so that the person who gets it, if they don't immediately throw it away, will be able to read it. Thank you very much, Madame President.

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

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. I think the silly discussion that we've been having on this thing really demonstrates those people who are trying to do something about the high cost of drugs in this state and are trying to provide more education to the consumers out there and those who don't want to do something about the problem and want to bury their head in the sand.

I'm sure there is a cost to putting some piece of ink on a receipt, as there is a cost for putting 'thank you for shopping at X, have a nice day' or 'Cindi is pleased to serve you today.' Those are the types of things that you see on receipts. Here is a piece of information that can be useful. It can be put to good use by people who are concerned about health care. I think that we should try to do something about the high cost of drugs in this state. This is an effort to do it. Have consumers more involved and more informed about what their decisions are. Thank you, Madame President.

THE PRESIDENT: The Senator from Waldo, Senator Weston, requests unanimous consent of the Senate to address the Senate a third time on this matter. Hearing no objection, the Senator may proceed.

Senator **WESTON:** Thank you, Madame President, men and women of the Senate. Many of our self-employers and large employers in the State of Maine, when they have a health care policy, contract with a pharmaceutical benefit manager. That PBM negotiates a contract for lower prices. That price that has been negotiated, that your insurance company is paying, is not what you are going to see on your label. You are going to see the usual and customary rate. Education is needed. You have to have the right facts. Those facts will not be on this label.

THE PRESIDENT: The Senator from Cumberland, Senator Turner, requests unanimous consent of the Senate to address the Senate a third time on this matter. Hearing no objection, the Senator may proceed.

Senator **TURNER:** Thank you, Madame President. I would just remind those in the chamber that things that have been very effective for helping us with respect to drug pricing controls, and we do see the cost of drugs, have gotten wide and deep bi-partisan support in this current legislature and in past legislatures. Suggesting that our opposition, or my opposition because I'm opposed to this, is because somehow I am not in favor of controlling drug prices is erroneous. Thank you.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#98)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MAYO, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT, THE PRESIDENT - BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, MARTIN, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

ABSENT: Senator: LEMONT

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **BRENNAN** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "B" (H-463) **READ** and **ADOPTED**, in concurrence.

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

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

Bill "An Act To Effectively Separate Children's Homes from Adult Residential Care Facilities Regarding Fire Safety"

H.P. 1131 L.D. 1542

Tabled - May 22, 2003 by Senator **MARTIN** of Aroostook

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-487)**, in concurrence

(In House, May 20, 2003, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-487)**.)

(In Senate, May 22, 2003, Report **READ** and **ACCEPTED**, in concurrence. **READ ONCE.** Committee Amendment "A" (H-487) **READ**.)

Committee Amendment "A" (H-487) **ADOPTED**, in concurrence.

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

The Chair laid before the Senate the following Tabled and Later (5/7/03) Assigned matter:

JOINT ORDER - Relative to Authorizing the Joint Standing Committee on Legal and Veterans Affairs To Report Out a Bill Regarding Liquor Enforcement

H.P. 1176

Tabled - May 7, 2003, by Senator **GAGNON** of Kennebec

Pending - **PASSAGE**, in concurrence

(In House, May 6, 2003, **READ** and **PASSED**.)

(In Senate, May 7, 2003, **READ**.)

On motion by Senator **GAGNON** of Kennebec, **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

All matters thus acted upon, with exception of those matters being held, were ordered sent down forthwith for concurrence.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

On motion by Senator **DAMON** of Hancock, the Senate **RECONSIDERED** whereby it **ACCEPTED** the Majority **OUGHT NOT TO PASS** Report on the following:

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Require the Net Proceeds from the Sale of a Foreclosed Property To Be Returned to the Former Owner"
H.P. 694 L.D. 937

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

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-470)** (5 members)

(In House, May 21, 2003, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 23, 2003, on motion by Senator **STANLEY** of Penobscot, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.)

At the request of Senator **DAMON** of Hancock a Division was had. 32 Senators having voted in the affirmative and 2 Senators having voted in the negative, the motion by Senator **STANLEY** of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

The Chair laid before the Senate the following Tabled and Later (5/16/03) Assigned matter:

HOUSE REPORT - from the Committee on **JUDICIARY** on Bill "An Act Relating to the Protection of Whistleblowers"
H.P. 1044 L.D. 1425

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-395)**

Tabled - May 16, 2003, by Senator **BENNETT** of Oxford

Pending - **ACCEPTANCE OF REPORT**, in concurrence

(In House, May 15, 2003, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-395)**.)

(In Senate, May 16, 2003, Report **READ**.)

Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-395) **READ** and **ADOPTED**, in concurrence.

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

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

ENACTORS

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

Emergency Measure

An Act Authorizing the Operation of Low-speed Vehicles on Certain Roads

H.P. 313 L.D. 393
(S "A" S-173 to C "A" H-357)

On motion by Senator **HATCH** of Somerset, placed on the **SPECIAL HIGHWAY TABLE**, pending **ENACTMENT**, in concurrence.

Emergency Measure

An Act To Comply with Federal Election Laws Including the Help America Vote Act of 2002

S.P. 492 L.D. 1486
(C "A" S-178)

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

Emergency Measure

An Act To Create the Maine National Guard Education Assistance Program

H.P. 1126 L.D. 1533
(C "A" H-455)

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

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

ENACTORS

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

Emergency Measure

An Act Regarding the Maine Military Authority and the Sale of the Fort Fairfield Armory

S.P. 516 L.D. 1537
(C "A" S-181)

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

Emergency Measure

An Act To Amend the Laws Relating to Corporations, Limited Partnerships, Limited Liability Companies, Limited Liability Partnerships and Marks

H.P. 1128 L.D. 1539
(C "A" H-419)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the

entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Measure

An Act To Amend the Law Relating to Multiple-employer Welfare Arrangements
S.P. 559 L.D. 1605

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with 1 Senator having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Senate at Ease.

Senate called to order by the President.

Senator **WOODCOCK** of Franklin was granted unanimous consent to address the Senate off the Record.

Senator **WOODCOCK** of Franklin was granted unanimous consent to address the Senate on the Record.

Senator **WOODCOCK**: I would request that when we adjourn today we adjourn in honor of those members of our armed forces who have died defending our freedom.

On motion by Senator **WOODCOCK** of Franklin, **ADJOURNED**, pursuant to the Joint Order, to Tuesday, May 27, 2003, at 10:00 in the morning, in memory of and lasting tribute to the members of the Armed Forces who have died defending our freedom.