

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

In Senate Chamber  
Wednesday  
April 25, 2007

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

Prayer by Reverend Dr. Tracy Reeves of North Brewer-Eddington United Methodist Church in Eddington

**REVEREND REEVES:** I want to first of all thank you all for this invitation, especially Senator Rosen. Let us be in the spirit of prayer.

Look graciously, oh God, upon this session, upon this state, this nation, and all nations. Where there is pride, subdue it. Where there is need, supply it. Where there is error, rectify it. Where there is division, bring restoration. Where there is justice and compassion, support it. In all of this, give those who serve Your wisdom, Your integrity, and clarity of purpose. Amen.

Reading of the Journal of Tuesday, April 24, 2007.

Doctor of the day, Richard Flowerdew, MD of Falmouth.

**Off Record Remarks**

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

**PAPERS FROM THE HOUSE**

**House Paper**

Bill "An Act To Allow Bayville Village To Separate from the Town of Boothbay Harbor and Affiliate with the Town of Boothbay"  
H.P. 1286 L.D. 1846

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

**REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed, in concurrence.

**COMMUNICATIONS**

The Following Communication: S.C. 216

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE  
COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY**

April 23, 2007

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

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 123rd Maine Legislature, the Joint Standing Committee on Criminal Justice & Public Safety has had under consideration the nomination of Patrick J. Fleming of Fairfield, for appointment as the Chief of the Maine State Police.

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

YEAS	Senators	2	Diamond of Cumberland, McCormick of Kennebec
	Representatives	9	Gerzofsky of Brunswick, Blanchette of Bangor, Greeley of Levant, Hanley of Gardiner, Haskell of Portland, Hill of York, Kaenrath of South Portland, Plummer of Windham, Tibbetts of Columbia
NAYS	Senators	0	
	Representatives	1	Sykes of Harrison
ABSENT		1	Sen. Sherman of Aroostook

Eleven members of the Committee having voted in the affirmative and one in the negative, it was the vote of the Committee that the nomination of Patrick J. Fleming of Fairfield, for appointment as the Chief of the Maine State Police be confirmed.

Signed,

S/Bill Diamond  
Senate Chair

S/Stanley J. Gerzofsky  
House Chair

**READ and ORDERED PLACED ON FILE.**

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

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

Dear President Edmonds and Speaker Cummings:

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

The Following Communication: S.C. 217

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE  
COMMITTEE ON AGRICULTURE, CONSERVATION AND  
FORESTRY**

April 12, 2007

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

Dear President Edmonds and Speaker Cummings:

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

- L.D. 25 An Act To Change the Maine Land Use Regulation Commission's Lot Size, Coverage and Setback Requirements for Some Affordable Housing Lots on Coastal Islands

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

Sincerely,

S/Sen. John M. Nutting  
Senate Chair

S/Rep. Wendy Pieh  
House Chair

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

- L.D. 338 An Act Regarding the Labor Market Adjustment for Teacher Salary Costs under Essential Programs and Services Funding
- L.D. 346 An Act To Increase State Funding of Public Education
- L.D. 404 An Act To Limit Regional Adjustments to Teacher Salaries
- L.D. 448 An Act To Improve Equity in School Funding
- L.D. 482 Resolve, To Conduct an Objective and Independent Review of Essential Programs and Services
- L.D. 979 An Act To Adjust the Calculation of the Essential Programs and Services Pupil Count to Accurately Reflect Population Change
- L.D. 1366 An Act To Limit the Loss a School Administrative Unit Could Receive under the School Funding Formula
- L.D. 1368 An Act To Revise the Essential Programs and Services Funding Formula To Increase Equity in School Funding

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

Sincerely,

S/Sen. Peter B. Bowman  
Senate Chair

S/Rep. Jacqueline Norton  
House Chair

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

The Following Communication: S.C. 218

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

April 18, 2007

The Following Communication: S.C. 219

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE  
COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

April 17, 2007

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

Dear President Edmonds and Speaker Cummings:

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

L.D. 1023 An Act To Designate Special Funds To Help Support Maine Military Families

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

Sincerely,

S/Sen. Lisa T. Marraché  
Senate Chair

S/Rep. John L. Patrick  
House Chair

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

The Following Communication: S.C. 220

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

April 20, 2007

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

Dear President Edmonds and Speaker Cummings:

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

L.D. 54 An Act To Conform Maine Law with Federal Law Regarding Tax Credits for Adoptions

L.D. 337 An Act To Exempt Certain Shipping Fees from the Sales Tax

L.D. 829 An Act To Create a Back-to-school Sales Tax-free Weekend Each Year (EMERGENCY)

L.D. 1482 An Act To Assist Recipients of Tax-exempt Income

L.D. 1486 An Act To Clarify the Property Tax Exemption for Family Burial Grounds

L.D. 1554 An Act To Assist Snowmobile Clubs with Local Property Taxes

L.D. 1578 An Act To Encourage Municipal Cooperation

L.D. 1633 An Act To Provide a Sales Tax Exemption for College Textbooks

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

Sincerely,

S/Sen. Joseph C. Perry  
Senate Chair

S/Rep. John F. Piotti  
House Chair

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

**SENATE PAPERS**

Bill "An Act To Amend the Laws Governing Stalking"  
S.P. 681 L.D. 1873

Sponsored by President EDMONDS of Cumberland.  
Cosponsored by Speaker CUMMINGS of Portland and Senators: DIAMOND of Cumberland, HOBBS of York, McCORMICK of Kennebec, SHERMAN of Aroostook, STRIMLING of Cumberland, Representatives: CASAVANT of Biddeford, DUNN of Bangor, HILL of York, PLUMMER of Windham, SIMPSON of Auburn. Submitted by the Department of the Attorney General pursuant to Joint Rule 204.

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

Sent down for concurrence.

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

Off Record Remarks

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**REPORTS OF COMMITTEES**

**House**

**Ought to Pass**

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Authorize the Use of the Department of Health and Human Services Staff as Hearing Officers"

H.P. 464 L.D. 615

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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The Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Clarify the Security Requirements for Self-insurers"

H.P. 751 L.D. 991

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 **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Amend the Laws Relating to Juveniles"

H.P. 399 L.D. 521

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-73)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-73)**.

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

**READ ONCE.**

Committee Amendment "A" (H-73) **READ** and **ADOPTED**, in concurrence.

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

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The Committee on **NATURAL RESOURCES** on Bill "An Act To Require the Replacement of Trees Cut in Shoreland Areas"

H.P. 270 L.D. 340

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-77)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-77)**.

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

**READ ONCE.**

Committee Amendment "A" (H-77) **READ** and **ADOPTED**, in concurrence.

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

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The Committee on **TAXATION** on Bill "An Act To Allow the Reimbursement of Motor Vehicle Excise Taxes in Certain Cases"

H.P. 198 L.D. 227

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-76)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-76)**.

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

**READ ONCE.**

Committee Amendment "A" (H-76) **READ** and **ADOPTED**, in concurrence.

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

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The Committee on **TAXATION** on Bill "An Act To Define More Clearly Procedures by Which a Municipality Assesses Property"

H.P. 217 L.D. 261

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-75)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-75)**.

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

**READ ONCE.**

Committee Amendment "A" (H-75) **READ** and **ADOPTED**, in concurrence.

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

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**Divided Report**

The Majority of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Permit Archery Hunters the Opportunity To Take an Additional Deer"

H.P. 228 L.D. 284

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

Signed:

Senators:

- BRYANT of Oxford
- PERRY of Penobscot
- GOOLEY of Franklin

Representatives:

- JACKSON of Allagash
- FINCH of Fairfield
- McLEOD of Lee
- EBERLE of South Portland
- RICHARDSON of Carmel
- WHEELER of Kittery
- LUNDEEN of Mars Hill
- RICHARDSON of Greenville
- BRYANT of Windham

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

Signed:

Representative:

- SAVIELLO of Wilton

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

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

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**Divided Report**

The Majority of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Encourage Landowners To Allow Hunting"

H.P. 483 L.D. 634

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

Signed:

Senators:

- BRYANT of Oxford
- PERRY of Penobscot
- GOOLEY of Franklin

Representatives:

- JACKSON of Allagash
- FINCH of Fairfield
- EBERLE of South Portland
- RICHARDSON of Carmel
- WHEELER of Kittery
- RICHARDSON of Greenville
- BRYANT of Windham

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-94)**.

Signed:

Representatives:

- SAVIELLO of Wilton
- McLEOD of Lee
- LUNDEEN of Mars Hill

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

Reports **READ**.

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

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**Divided Report**

The Majority of the Committee on **NATURAL RESOURCES** on Bill "An Act Concerning Deductibles for Underground Oil Storage Facilities and Tanks"

H.P. 554 L.D. 733

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

Signed:

Senators:

- MARTIN of Aroostook
- SMITH of Piscataquis

Representatives:

HAMPER of Oxford  
WAGNER of Lewiston  
ANNIS of Dover-Foxcroft  
MIRAMANT of Camden  
EBERLE of South Portland  
KOFFMAN of Bar Harbor  
DUCHESNE of Hudson  
BABBIDGE of Kennebunk  
McDONOUGH of Scarborough

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-96)**.

Signed:

Representative:

AYOTTE of Caswell

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

Reports **READ**.

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

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

Senator **MARTIN:** Thank you, Madame President and members of the Senate. This bill was heard a couple of weeks ago. It involves an individual in Aroostook County and deals with the fact that there was no law prior to an underground tank law in which a fine had been assessed. We have reached an agreement with the department and a consensus agreement has been agreed to by the department and the individual so that there is no need for this bill at this time.

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

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**Divided Report**

The Majority of the Committee on **UTILITIES AND ENERGY** on Resolve, To Protect the Future of the Sebago Lake Water Supply  
H.P. 715 L.D. 940

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

Signed:

Senators:

BARTLETT of Cumberland  
HOBBINS of York  
SMITH of Piscataquis

Representatives:

THIBODEAU of Winterport  
BLANCHARD of Old Town  
CURTIS of Madison  
BLISS of South Portland  
FLETCHER of Winslow  
ADAMS of Portland  
BERRY of Bowdoinham  
HINCK of Portland

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

Signed:

Representatives:

RINES of Wiscasset  
FITTS of Pittsfield

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

Reports **READ**.

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

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**Senate**

**Ought to Pass As Amended**

Senator BROMLEY for the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Strengthen Rural Community Investment"  
S.P. 239 L.D. 790

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-52)**.

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

**READ ONCE**.

Committee Amendment "A" (S-52) **READ** and **ADOPTED**.

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

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Senator MARRACHÉ for the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Improve Transportation for Veterans"

S.P. 316 L.D. 999

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-55)**.

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

**READ ONCE.**

Committee Amendment "A" (S-55) **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 Protect the Solemnity and Dignity of a Funeral or Memorial Service in Maine"  
S.P. 83 L.D. 246

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-54)**.

Signed:

Senators:

- DIAMOND of Cumberland
- McCORMICK of Kennebec
- SHERMAN of Aroostook

Representatives:

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

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

Signed:

Representatives:

- GERZOFISKY of Brunswick
- HASKELL of Portland
- HILL of York

Reports **READ**.

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

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

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

Senator **HASTINGS:** Thank you, Madame President, ladies and gentlemen of the Senate. I wish to speak briefly to this bill. This bill, which is entitled 'A Bill to Protect the Solemnity and Dignity of a Funeral or Memorial Service in Maine', is a direct result of the threats that a group from Kansas made last March to protest the

funeral of Sergeant Corey Dan of Norway who was killed in Iraq. The group has been appearing at slain soldier's funerals around the country claiming with hateful signs that our soldiers are being killed as God's punishment for our nation's acceptance of homosexuality. Hateful speech. It is my belief, ladies and gentlemen, that a funeral, burial, or memorial service is only about family and friends grieving and saying good-bye to a loved one. It is no place for unwanted politics, protests, or unwanted communication. Whatever the notoriety surrounding the death or the funeral, the deceased is someone's mother, father, son, or daughter. The family deserves the right to mourn without disturbance and interference of politics, protests, or other hateful communication or any other unwanted communication. They deserve a bubble of protection.

Last spring we attempted to pass legislation, and I want to thank the Governor's Office for helping us on that, but we just weren't able to get it through in time for the funeral. We did submit the legislation we came up with at that time. The interest is clearly one of balancing the right of a family to mourn in peace and the right of freedom of speech. As Corey Dan's grandmother told me, Corey gave his life to protect our liberties and our right for freedom of speech. It was not their intent to prohibit protests. Their only goal was to give their family a small bubble of protection to greave in peace.

As we originally drafted this bill it was based on time and distance prohibitions. You couldn't protest, or make these hateful signs of protest, within so many hours before or after and so many feet from the funeral. Many states have developed laws like this and were discovering that trying to use time and distance prohibitions run afoul of First Amendment rights because every circumstance is different. Whatever distance you pick in some circumstances it is too much, it's more than is necessary to protect the family. If you pick a small distance that is felt would work in every case, then there are other cases where it won't work at all. With the help of the State Police and the Criminal Justice Committee, we took a different tack and that is the Amendment before you today. The bill at this point essentially adds to the disorderly conduct laws of this state a prohibition and creates the crime of knowingly insulting, taunting, or challenging any person with offensive, derisive, or annoying words or other physical conduct which would have a direct tendency to incite a violent response. As you know, these types of hateful protests do incite many violent responses. How many people, friends of the family, say, 'I wish I could just go over and knock their head off and I'd do it if I could.' The State Police has told us this language would give them what they need to protect a funeral. The Maine Civil Liberties Union, which initially was concerned about the time and distance, has told us they are comfortable with this language from a Constitutional point of view.

Ladies and gentlemen, for the benefit of all Mainers, and it's not just slain soldiers because it maybe a heinous criminal, but whatever the circumstances let's be sure that the family and friends of that deceased person can mourn and say good-bye to their loved one in peace. Ladies and gentlemen, I urge your support and vote in favor of the pending motion. Thank you.

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

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

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

Senator **STRIMLING:** Thank you, Madame President. To anyone who may know the particulars, in reading the amendment it seems pretty clear in terms of whether you are making noise or whether you are doing something demonstrative in some way that can really distract. Does it in any way restrict a somebody's right to have a poster that says whatever it is they say. I'm just trying to get a question of, if they are still allowed to put it on a piece of paper and hold it up if they want to, they just can't verbally or physically accost.

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

Senator **HASTINGS:** Thank you, Madame President. It is my belief it does not have to be a verbal taunt. A poster would fall within the definition of what is prohibited. The goal here is to protect that family from this unwanted communication, whether it be in print or verbal or some other form. A law similar to this has been challenged in Kentucky in a federal court. It was a law that had a time and distance prohibition. The court found that a family does have an interest to be protected from unwanted communications at the funeral. They just said the time and distance things were too difficult to enforce and in that particular case extended beyond what was necessary. This is much like another section in the law on disorderly conduct, which already makes it a crime to make offensive gestures and taunts that would incite the physical reaction. That's what this is aimed at. It's keeping the peace. The violent reaction, that becomes the result of these taunts, is the interest that the state has in protecting against. Obviously, I think that even a sign can incite that violent reaction and under this statute would be prohibited.

On motion by Senator **DIAMOND** of Cumberland, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report. (Roll Call Ordered)

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**Divided Report**

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Amend the Laws Governing Cases Involving the Plea or Finding of Not Criminally Responsible by Reason of Insanity"

S.P. 65 L.D. 182

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

Signed:

Senators:

DIAMOND of Cumberland  
McCORMICK of Kennebec

Representatives:

GERZOFKY of Brunswick  
BLANCHETTE of Bangor  
GREELEY of Levant  
HILL of York  
HANLEY of Gardiner  
TIBBETTS of Columbia  
KAENRATH of South Portland  
SYKES of Harrison

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-53)**.

Signed:

Senator:

SHERMAN of Aroostook

Representative:

PLUMMER of Windham

Reports **READ**.

Senator **DIAMOND** of Cumberland 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.

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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 To Effect the Seizure and Disposal of Contraband Fireworks" (EMERGENCY)

H.P. 292 L.D. 362

Resolve, To Name the Bridge on Route 201 in Jackman over the Moose River the Veterans Memorial Bridge

H.P. 423 L.D. 545

Resolve, Regarding Legislative Review of Portions of MaineCare Benefits Manual, Chapter III, Section 97, Private Non-medical Institution Services, a Major Substantive Rule of the Department of Health and Human Services (EMERGENCY)

H.P. 535 L.D. 704

Bill "An Act To Clarify Certain Laws Related to Fire Safety" H.P. 671 L.D. 886



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

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**House As Amended**

Bill "An Act Relating to Alternate Directors for Public Waste Disposal Corporations"

H.P. 245 L.D. 301  
(C "A" H-64)

Bill "An Act To Clarify Recent Changes to the Laws Regulating Land Use Ordinances"

H.P. 275 L.D. 345  
(C "A" H-60)

Resolve, To Stimulate Tourism Development Projects

H.P. 403 L.D. 525  
(C "A" H-69)

Bill "An Act To Amend the Law Regarding Transactions at Financial Institutions"

H.P. 518 L.D. 687  
(C "A" H-70)

Resolve, To Study Maine's Agricultural Creative Economy Sector

H.P. 666 L.D. 876  
(C "A" H-68)

Bill "An Act To Permit the Sale of Antique Barometers"

H.P. 691 L.D. 916  
(C "A" H-65)

Bill "An Act To Clarify the Use of Insurance Scores"

H.P. 801 L.D. 1083  
(C "A" H-72)

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

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**Senate**

Bill "An Act Regarding Final Agency Action Subject to Appeal Pursuant to the Maine Workers' Compensation Act of 1992"

S.P. 16 L.D. 41

Bill "An Act To Postpone the Expiration of the Required Nonhospital Expenditures Component in the Capital Investment Fund"

S.P. 137 L.D. 436

Bill "An Act Regarding the Protection and Advocacy Agency Advisory Council"

S.P. 154 L.D. 467

Bill "An Act To Further Limit Retrospective Denials of Previously Paid Health Insurance Claims"

S.P. 406 L.D. 1218

**READ A SECOND TIME** and **PASSED TO BE ENGROSSED**.

Sent down for concurrence.

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**Senate As Amended**

Bill "An Act To Establish Emergency Response to Illegal Introductions of Invasive Fish Species"

S.P. 89 L.D. 252  
(C "A" S-38)

Bill "An Act To Require the Department of Environmental Protection To Meet the Federal Requirements on Regional Haze Visibility Impairment"

S.P. 144 L.D. 443  
(C "A" S-50)

Bill "An Act To Amend the Laws Dealing with the Posting of Gas Prices"

S.P. 208 L.D. 671  
(C "A" S-45)

Bill "An Act To Strengthen the Scientific Research Support Capability of the Maine State Museum"

S.P. 209 L.D. 672  
(C "A" S-42)

Bill "An Act To Allow Schools in the State To Self-insure for Fire, Property and Theft Insurance"

S.P. 219 L.D. 682  
(C "A" S-41)

Bill "An Act Regarding Notice That Must Be Provided by a Psychiatric Facility Concerning Certain Patients"

S.P. 228 L.D. 711  
(C "A" S-49)

Bill "An Act To Ensure Equitable Geographic Representation on the State Board of Education"

S.P. 240 L.D. 791  
(C "A" S-43)

Bill "An Act To Increase the Amount of Money a Resident in a Nursing Home May Spend on Personal Expenses"

S.P. 273 L.D. 880  
(C "A" S-39)

Bill "An Act To Allow a Self-pay Patient To Choose between Generic and Brand-name Medications"

S.P. 281 L.D. 883  
(C "A" S-40)

Bill "An Act To Increase Educational Opportunities in the Kennebec Valley Region"

S.P. 286 L.D. 898  
(C "A" S-44)

Bill "An Act To Amend the Laws Governing Credit Card Companies"

S.P. 302 L.D. 951  
(C "A" S-48)

An Act To Protect and Improve Lake Water Quality by Reducing Phosphorus in Lawn Care Fertilizer

H.P. 454 L.D. 587  
(C "A" H-49)

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

An Act To Strengthen OUI Laws As They Pertain to Drugs  
H.P. 480 L.D. 631

Sent down for concurrence.

An Act To Promote Municipal Energy Conservation  
H.P. 494 L.D. 645  
(C "A" H-45)

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

An Act To Amend the Charter of the Winterport Water District  
S.P. 310 L.D. 993

An Act To Update and Clarify Laws Relating to Maine's Community Colleges  
H.P. 859 L.D. 1178

**ENACTORS**

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

An Act To Amend the Banking Laws Regarding the Establishment of Branches by Financial Institutions with Affiliates That Engage in Commercial Activity  
S.P. 651 L.D. 1829

**Emergency Measure**

An Act To Continue the Axle Weight Law Changes beyond September 15, 2007

H.P. 10 L.D. 9  
(C "A" H-48)

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

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

An Act To Authorize a Tribal Commercial Track and Slot Machines in Washington County  
I.B. 1 L.D. 805  
(S "A" S-37)

**Emergency Measure**

An Act To Remove the Sunset on the Exemption of Internet Services from Auctioneer Licensure Requirements  
S.P. 177 L.D. 565

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

**Resolves**

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 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.

Resolve, To Develop and Promote Enhanced Humane Livestock Handling and Slaughtering Practices  
H.P. 55 L.D. 57  
(C "A" H-43)

Resolve, Directing the Department of Education To Review and Assess Distance Learning Opportunities for High School Students  
H.P. 365 L.D. 481

**Acts**

An Act To Include Undeveloped Archeological Sites in the Acquisition Criteria for the Land for Maine's Future Fund  
H.P. 127 L.D. 145  
(C "A" H-44)

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

An Act To Allow Funeral Processions To Use Certain Lights  
H.P. 381 L.D. 497  
(C "A" H-47)

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

**COMMUNICATIONS**

The Following Communication: S.P. 682

**STATE OF MAINE  
123<sup>RD</sup> MAINE LEGISLATURE**

April 24, 2007

Sen. Dennis S. Damon  
Senate Chair, Joint Standing Committee on Marine Resources  
Rep. Leila J. Percy  
House Chair, Joint Standing Committee on Marine Resources  
123<sup>rd</sup> Legislature  
Augusta, ME 04333

Dear Senator Damon and Representative Percy:

Please be advised that Governor John E. Baldacci has nominated the following to the Marine Resources Advisory Council:

George Harris, Jr. of Eastport for appointment  
Alton West of Milbridge for reappointment  
Rod Mitchell of Peaks Island for reappointment  
Dana Temple of Cape Elizabeth for reappointment

Pursuant to Title 12 M.R.S.A. §6024, these nominations will require review by the Joint Standing Committee on Marine Resources and to confirmation by the Senate.

Sincerely,

S/Beth Edmonds  
President of the Senate

S/Glenn Cummings  
Speaker of the House

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

Sent down for concurrence.

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

**PAPERS FROM THE HOUSE**

**Pursuant to Resolve  
Joint Standing Committee on State and Local Government**

The **Joint Standing Committee on State and Local Government**, pursuant to Resolve 2005, chapter 168 asked leave to report that the accompanying Resolve, Regarding the Maine State Cultural Building in Augusta (EMERGENCY)  
H.P. 1308 L.D. 1876

Be **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed pursuant to Joint Rule 218.

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

**REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed pursuant to Joint Rule 218, in concurrence.

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

**PAPERS FROM THE HOUSE**

**Pursuant to Statute  
Maine Health Data Organization**

The **Maine Health Data Organization**, pursuant to the Maine Revised Statutes, Title 5, section 8072 asked leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 270: Uniform Reporting Systems for Maine Quality Data Sets, a Major Substantive Rule of the Maine Health Data Organization (EMERGENCY)

H.P. 1306 L.D. 1874

Be **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.

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

**REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218, in concurrence.

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

**PAPERS FROM THE HOUSE**

**Pursuant to Statute  
Department of Audit**

The **Department of Audit**, pursuant to the Maine Revised Statutes, Title 36, section 1604 asked leave to report that the accompanying Bill "An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2007-08" (EMERGENCY)

H.P. 1307 L.D. 1875

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

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

**REFERRED** to the Committee on **TAXATION** and ordered printed pursuant to Joint Rule 218, in concurrence.

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Senate at Ease.

Senate called to order by the President.

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**ORDERS OF THE DAY**

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

NOMINATION - of Patrick J. Fleming of Fairfield, for appointment as the Chief of the Maine State Police

Tabled - April 25, 2007, by Senator **MARTIN** of Aroostook

Pending - **CONSIDERATION**

(In Senate, April 25, 2007, Communication (S.C. 216) from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY**, **READ** and **ORDERED PLACED ON FILE**.)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** be overridden?"

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#54)**

YEAS: Senators: None

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

ABSENT: Senators: PERRY, SCHNEIDER, SHERMAN

EXCUSED: Senator: MARRACHE

No Senator having voted in the affirmative and 31 Senators having voted in the negative, with 3 Senators being absent and 1 Senator being excused, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Patrick J. Fleming** of Fairfield, for appointment as the Chief of the Maine State Police was **CONFIRMED**.

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

**THE PRESIDENT:** The Chair recognizes in the rear of the Chamber Patrick J. Fleming of Fairfield. Would he please rise and accept the greetings of the Maine Senate.

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The Chair laid before the Senate the following Tabled and Later (4/24/07) Assigned matter:

HOUSE REPORTS - from the Committee on **TRANSPORTATION** on Bill "An Act To Permit the Use of Pictorial Graphics and Photographs on Changeable Signs" H.P. 627 L.D. 830

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-61)** (10 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-62)** (3 members)

Tabled - April 24, 2007, by Senator **DAMON** of Hancock

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, April 11, 2007, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-61)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-61)**.)

(In Senate, April 24, 2007, Reports **READ**).

On motion by Senator **DAMON** of Hancock, the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-62)** Report **ACCEPTED**, in **NON-CONCURRENCE**.

**READ ONCE.**

Committee Amendment "B" (H-62) **READ** and **ADOPTED**.

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

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Senate at Ease.

Senate called to order by the President.

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Off Record Remarks

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

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Senator **SAVAGE** of Knox was granted unanimous consent to address the Senate off the Record.

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Senator **SULLIVAN** of York was granted unanimous consent to address the Senate off the Record.

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Senator **DOW** of Lincoln was granted unanimous consent to address the Senate off the Record.

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

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

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On motion by Senator **MITCHELL** of Kennebec, **ADJOURNED**, to Thursday, April 26, 2007, at 10:00 in the morning.