

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

Reading of the Journal of Wednesday, April 6, 2005.

In Senate Chamber
Thursday
April 7, 2005

Off Record Remarks

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

Out of order and under suspension of the Rules, on motion by Senator **BRENNAN** of Cumberland, the following Joint Order:
S.P. 544

Prayer by Leslie Manning of Durham Friends Meeting.

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, April 12, 2005, at 10:00 in the morning.

MS. MANNING: Good morning friends. Since our founding in the 1600's, we Quakers have drawn no distinction between male or female, master or slave, prelate or parishioner because we believe that there is that of God in every one of us and we need no intermediary between us and the divine presence. Most meetings are conducted in worshipful silence, but there are some, like my home meeting in Durham, that is a programmed meeting with a message brought, usually by a pastor, and hymn singing and much rejoicing, for we are a prayerful people and we believe that all of life is sacramental. It is not in our worship that we do our work. Our work is in the world where we are committed to building a more just, a more equitable, and a more peaceful world, in building the blessed community. I take a reading today from Plain Living, a book compiled by a Portland friend. This excerpt was written by Parker Palmer.

READ and PASSED.

Ordered sent down forthwith for concurrence.

COMMUNICATIONS

The Following Communication: S.P. 539

**122nd MAINE STATE LEGISLATURE
AUGUSTA, MAINE 04333**

April 6, 2005

Sen. Ethan Strimling
Senate Chair, Joint Standing Committee on Labor
Rep. William J. Smith
House Chair, Joint Standing Committee on Labor
122nd Legislature
Augusta, ME 04333

Dear Senator Strimling and Representative Smith:

Please be advised that Governor John E. Baldacci has nominated Anthony Peverada of South Portland for appointment as Chairman of the Maine Unemployment Insurance Commission. Pursuant to Title 26 M.R.S.A. §1081, this nomination will require review by the Joint Standing Committee on Labor.

Sincerely,

S/Beth Edmonds
President of the Senate

S/John Richardson
Speaker of the House

READ and REFERRED to the Committee on **LABOR**.

Sent down for concurrence.

Doctor of the day, Dr. Mitchell Ross of Augusta.

The Following Communication: S.P. 540

**122nd MAINE STATE LEGISLATURE
AUGUSTA, MAINE 04333**

April 6, 2005

Sen. Dennis S. Damon
Senate Chair, Joint Standing Committee on Transportation
Rep. Boyd P. Marley
House Chair, Joint Standing Committee on Transportation
122nd Legislature
Augusta, ME 04333

Dear Senator Damon and Representative Marley:

Please be advised that Governor John E. Baldacci has nominated Lucien Gosselin of Lewiston for reappointment as a member of the Maine Turnpike Authority.

Pursuant to Title 23 M.R.S.A. §1965, this nomination will require review by the Joint Standing Committee on Transportation.

Sincerely,

S/Beth Edmonds
President of the Senate

S/John Richardson
Speaker of the House

**READ and REFERRED to the Committee on
TRANSPORTATION.**

Sent down for concurrence.

The Following Communication: S.C. 148

**MAINE STATE LEGISLATURE
COMMITTEE ON LABOR
AUGUSTA, MAINE 04333**

April 1, 2005

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

Dear President Edmonds and Speaker Richardson:

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

L.D. 520 An Act To Improve Binding Arbitration in Public Sector Labor Relations

L.D. 579 An Act To Supplement Benefits for State Employees and Teachers Whose Pensions Are Subject to Reductions Enacted in 1993

L.D. 840 An Act To Distribute Costs for the Funding of Pensions and Health Insurance for Retired Teachers

L.D. 901 Resolve, To Create a New Pension System for Newly Hired Teachers and State Employees

L.D. 912 An Act Regarding Noncompete Agreements

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

Sincerely,

S/Sen. Ethan Strimling
Senate Chair

S/Rep. William J. Smith
House Chair

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

The Following Communication: S.C. 149

**MAINE STATE LEGISLATURE
COMMITTEE ON TRANSPORTATION
AUGUSTA, MAINE 04333**

April 4, 2005

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

Dear President Edmonds and Speaker Richardson:

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

L.D. 3 Resolve, To Equalize Funding of Rail Service from New Hampshire

L.D. 124 An Act To Require Informational Signs on the Maine Turnpike for The Theater at Monmouth

L.D. 175 An Act To Permit Logo Signs on the Maine Turnpike

L.D. 616 An Act To Alter Wrecker Registrations

- L.D. 814 Resolve, To Require the Department of Transportation To Use Adjustable Warning Signs
- L.D. 947 An Act To Clarify the Laws Regarding Motor Vehicle Title Applications
- L.D. 1211 An Act To Permit the Expanded Use of Changeable Signs for Governmental Entities and Public Facilities

S/Rep. Nancy E. Smith
House Chair

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

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

Sincerely,

S/Sen. Dennis Damon
Senate Chair

S/Rep. Boyd P. Marley
House Chair

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

The Following Communication: S.C. 150

**MAINE STATE LEGISLATURE
COMMITTEE ON BUSINESS, RESEARCH
AND ECONOMIC DEVELOPMENT
AUGUSTA, MAINE 04333**

April 1, 2005

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

Dear President Edmonds and Speaker Richardson:

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

- L.D. 776 An Act Requiring the Disclosure of Odometer Changes
- L.D. 956 An Act To Prevent Identity Theft

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

Sincerely,

S/Sen. Lynn Bromley
Senate Chair

SENATE PAPERS

Bill "An Act To Adopt the Uniform Environmental Covenants Act"
S.P. 543 L.D. 1559

Sponsored by Senator HOBBS of York.
Cosponsored by Representative SHERMAN of Hodgdon and Representatives: BRYANT of Windham, CARR of Lincoln, GERZOFKY of Brunswick.

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

Sent down for concurrence.

Bill "An Act Concerning Storm Water Management"
S.P. 542 L.D. 1558

Sponsored by Senator COWGER of Kennebec.
Cosponsored by Representatives: FISCHER of Presque Isle, MARLEY of Portland.
Submitted by the Department of Environmental Protection pursuant to Joint Rule 204.

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

Sent down for concurrence.

Bill "An Act To Improve the Business Equipment Tax Reimbursement Program"
S.P. 541 L.D. 1557

Sponsored by Senator STRIMLING of Cumberland.
Cosponsored by Representative HUTTON of Bowdoinham and Senators: BROMLEY of Cumberland, PERRY of Penobscot, Representatives: PINEAU of Jay, WATSON of Bath.

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

Sent down for concurrence.

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

Off Record Remarks

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Update Certain Provisions Pertaining to County Government"

H.P. 179 L.D. 240

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.

Ought to Pass As Amended

The Committee on **LABOR** on Resolve, Regarding Legislative Review of Chapter 15: Rules Relating to Severance Pay, a Major Substantive Rule of the Department of Labor, Bureau of Labor Standards (EMERGENCY)

H.P. 12 L.D. 7

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-107)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-107)**.

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

READ ONCE.

Committee Amendment "A" (H-107) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **TAXATION** on Bill "An Act To Provide Tax Relief for People with Functional Limitations"

H.P. 94 L.D. 118

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-108)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-108)**.

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

READ ONCE.

Committee Amendment "A" (H-108) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, Regarding Legislative Review of Chapter 40: Medication Administration in Maine Schools, a Major Substantive Rule of the Department of Education (EMERGENCY)
H.P. 16 L.D. 11

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

Signed:

Senators:

MITCHELL of Kennebec
SCHNEIDER of Penobscot
TURNER of Cumberland

Representatives:

NORTON of Bangor
DAVIS of Falmouth
FINCH of Fairfield
EDGECOMB of Caribou
GOLDMAN of Cape Elizabeth
STEDMAN of Hartland
MAKAS of Lewiston
CAIN of Orono
MERRILL of Appleton

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-99)**.

Signed:

Representative:

LANSLEY of Sabattus

Comes from the House with the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED**.

Reports **READ**.

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

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence.

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act To Increase the Limit on the Right To Rejoin the Maine State Retirement System"

H.P. 391 L.D. 515

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-106)**.

Signed:

Senators:

- STRIMLING of Cumberland
- SNOWE-MELLO of Androscoggin
- BARTLETT of Cumberland

Representatives:

- SMITH of Van Buren
- DRISCOLL of Westbrook
- JACKSON of Fort Kent
- HALL of Holden
- HUTTON of Bowdoinham
- DUPREY of Hampden
- TUTTLE of Sanford
- HAMPER of Oxford
- CLARK of Millinocket

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

Signed:

Representative:

- CRESSEY of Cornish

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-106)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-106) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act Regarding the Late Payment of Rent" H.P. 260 L.D. 337

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

Signed:

Senators:

- GAGNON of Kennebec
- MITCHELL of Kennebec

Representatives:

- FISHER of Brewer
- OTT of York
- VALENTINO of Saco
- PATRICK of Rumford
- TUTTLE of Sanford
- HOTHAM of Dixfield
- MOORE of Standish
- BLANCHETTE of Bangor
- BROWN of South Berwick

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

Signed:

Senator:

- PLOWMAN of Penobscot

Representative:

- PINKHAM of Lexington Township

(Representative MOORE of the Passamaquoddy Tribe - of the House - supports the Majority **Ought Not To Pass** Report.)

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.

Senate

Ought to Pass

Senator TURNER for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Align Maine Special Education Complaint Management Provisions with the Federal Individuals with Disabilities Education Act"

S.P. 124 L.D. 400

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Reduce the Minimum Participation Requirements of Insurance Carriers"

S.P. 89 L.D. 269

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

Signed:

Senators:

SULLIVAN of York
MAYO of Sagadahoc

Representatives:

McKANE of Newcastle
LINDELL of Frankfort
PILON of Saco
RICHARDSON of Warren
MARRACHÉ of Waterville

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-73)**.

Signed:

Senator:

MILLS of Somerset

Representatives:

PERRY of Calais
BRAUTIGAM of Falmouth
VAUGHAN of Durham
GLYNN of South Portland
HARLOW of Portland

Reports **READ**.

Senator **SULLIVAN** of York moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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

Senator **PLOWMAN:** Thank you, Madame President, men and women of the Senate. I ask you to oppose the pending motion. I'd like to explain the bill, if I may. Currently Maine law requires that when you sign up for insurance that 75% of your eligible employees, eligible being defined as people who are not otherwise covered an existing plan, must buy insurance in order

for your small business, or any business, to be able to be insured under a group plan. I just can't seem to find 75% of the people in my business because 7.5 always translates into rounding up. What my bill says is that the first time around you must provide 75% of your eligible employees as the basis for your group policy. It says that at the time of renewal that they recognize that things might have changed. You might have had an employee leave and that you do fall behind at the 75% rate. I would like to point out that this bill has been amended in committee to effect only small businesses, businesses with 10 or less eligible employees. A very small portion of the businesses that are out there, with 10 or less. What the amendment does is say that only 6 out of 10 of the eligible employees have to be covered or have to buy the insurance upon renewal. It gives the company some wiggle room back and forth from year to year in order to maintain the insurability of their employees. As I pointed out to the committee, and a little earlier, 75% of 10 actually means 8. If you can't provide the 8 out of 10, people go uninsured.

As you all know, I like to use personal experience to tell you how this works. I'll tell you about my company, but my company is not unusual. We have 42 employees. About 10 of them are eligible. Those 10 people, when they buy coverage, insure 45 people; their dependents, their spouses, and themselves. If we drop from 8 to 7 insured individuals, 45 people go uninsured. The argument that I heard against this bill was the people could go out and buy individual policies. Well, my math isn't good, but I think it's about 30% more for these people to buy an individual policy. It does not have anything like the benefits that a group policy does. What this does is offer access and ensure access to people who do need insurance. It's a small business bill. It makes sense. I would hope that you will oppose the pending motion and help small businesses around the State of Maine keep their employees insured. I would like to make one further comment. All insurance companies, even the new Dirigo, require a 75% participation rate. If there is some doubt out there about whether we can shop around and find a lower participation rate, we can't. We have to live by what is set right now and we will go uninsured. Thank you very much.

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

Senator **MAYO:** Thank you, Madame President, men and women of the Senate. I rise today in support of the motion made by the good chair of the Insurance and Financial Services Committee. This particular bill has been heard before this body on more than one occasion since I was elected back in 1994. It has not been approved those times that it has been heard. I would hope that it will not be approved today.

Maine's current participation rate of 75% is what is common in most states in this country. The change has an adverse potential. Yes, I cannot disagree with some of the comments of the good Senator from Penobscot, Senator Plowman, but it has the potential of increasing the premiums for both employers and employees. In addition to that situation, higher participation rates spread the insurance risk across a broad and a diverse pool. It will not set up an adverse situation for people. As the pool become smaller, there is the potential for what is called an adverse potential because the 75% or 80%, but most states are at 75%, spreads the risk by a little greater number. I, personally, feel that Maine does not need to join a few of the states in this country by decreasing its percentage. We should leave things

alone, the way they are. It has worked in the past. I have no doubt that it will work in the future. Thank you.

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

Senator **DOW:** Thank you, Madame President, ladies and gentlemen of the Senate. I just come to you briefly to give you an example from my own business. I have 15 employees. I'm going to speak in favor of what the Senator from Penobscot, Senator Plowman, said. I have 15 employees and the way the system works is if some of them have insurance already, you don't count those. If 5 have insurance, we're down to 10. Now I need 75% of the remaining group. Sometimes I'm right on the borderline on whether I'm going to make that. I switched to the Dirigo insurance for my company this year just to try it out. It wasn't that it was going to save me any money. The paperwork was more extensive, but I wanted to see what the program was like. I actually had an employee that's covered under MaineCare. I don't pay the 60% that Dirigo asks us to, I pay around 85%. I used to pay 100%, but with the rising rates I had to drop it a little bit. The question became for one of the individuals, 'Would you come on the store insurance policy and off the state, but it's going to cost you a little over \$7 a week?' The answer I was given was, 'I already have insurance, why should I pay \$7 a week to go on the health insurance?' Anyways, that brings the eligible number of people down to the borderline. I've got to have 8 out of the 10 on it and that makes it difficult. One of these times I'm going to lose out and my employees are going to lose insurance. While they can go out and get it on their own, it's never as cheap as it is with a company policy. I would speak in favor of what the Senator from Penobscot, Senator Plowman, said. Thank you.

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

On motion by Senator **GAGNON** of Kennebec, **TABLED** until Later in Today's Session, pending the motion by Senator **SULLIVAN** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report. (Roll Call Ordered)

SECOND READERS

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

House

Bill "An Act To Clarify Matters Relating to the Offices of Secretary and Treasurer of the Maine Turnpike Authority"
H.P. 153 L.D. 202

Bill "An Act To Raise the Marriage Fees"
H.P. 281 L.D. 379

Bill "An Act To Clarify City Election Procedures" (EMERGENCY)
H.P. 363 L.D. 488

Bill "An Act To Amend the Crime of Escape"
H.P. 694 L.D. 984

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

Bill "An Act To Increase Vital Records Fees"
H.P. 348 L.D. 473

READ A SECOND TIME.

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

House As Amended

Bill "An Act To Allow the Part-time Assignment of State Police Officers to Municipalities"
H.P. 78 L.D. 102
(C "A" H-97)

Bill "An Act To Provide the Portland Harbor Commission with the Authority To Arrest"
H.P. 264 L.D. 351
(C "A" H-98)

Bill "An Act To Adopt the Maine Uniform Securities Act"
H.P. 384 L.D. 509
(C "A" H-103)

Bill "An Act To Designate 2-1-1 Maine, Incorporated as the Sole Provider for 2-1-1 Information and Referral Services for the State of Maine" (EMERGENCY)
H.P. 399 L.D. 523
(C "A" H-100)

Bill "An Act To Allow the Department of Marine Resources To Preserve and Protect Burnt Island and Burnt Island Living Lighthouse and To Regulate Their Use"
H.P. 428 L.D. 595
(C "A" H-105)

Bill "An Act To Save the Health Care System Money by Ensuring Timely Denials of Claims"
H.P. 433 L.D. 600
(C "A" H-102)

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

Bill "An Act To Delay the Fiscal Sustainability of the Highway Fund"
H.P. 109 L.D. 131
(C "A" H-96)

READ A SECOND TIME.

On motion by Senator **GAGNON** of Kennebec, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

Senate As Amended

Bill "An Act To Provide Free Deer Hunting Licenses to Persons 100 Years of Age or Older"

S.P. 207 L.D. 652
(C "A" S-70)

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

Sent down for concurrence.

All matters thus acted upon were ordered sent down forthwith for 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 (3/30/05) Assigned matter:

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Exempt the United States Flag from State Taxation" H.P. 266 L.D. 353

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-77)** (6 members)

Tabled - March 30, 2005, by Senator **PERRY** of Penobscot

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, March 29, 2005, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-77).**)

(In Senate, March 30, 2005, Reports **READ.**)

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

READ ONCE.

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

Under suspension of the Rules, **READ A SECOND TIME.**

On motion by Senator **GAGNON** of Kennebec, Senate Amendment "A" (S-74) **READ.**

On motion by Senator **GAGNON** of Kennebec, Senate Amendment "A" (S-74) **ADOPTED.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-77) AND SENATE AMENDMENT "A" (S-74), in NON-CONCURRENCE.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (4/5/05) Assigned matter:

Bill "An Act To Reduce Property Taxes by Reforming County Government"

H.P. 1081 L.D. 1536

Tabled - April 5, 2005, by Senator **GAGNON** of Kennebec

Pending - motion by Senator **PERRY** of Penobscot to **REFER** to the Committee on **TAXATION**, in **NON-CONCURRENCE**

(Committee on **TAXATION** suggested and ordered printed.)

(In House, April 4, 2005, **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT.**)

Senator **PERRY** of Penobscot requested and received leave of the Senate to withdraw his motion to **REFER** to the Committee on **TAXATION**, in **NON-CONCURRENCE.**

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

The Chair laid before the Senate the following Tabled and Later (4/5/05) Assigned matter:

JOINT ORDER - To Promote Regionalization in Cumberland County Government

H.P. 1089

Tabled - April 5, 2005, by Senator **SCHNEIDER** of Penobscot

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

(In House, April 4, 2005, **READ** and **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT.**)

On motion by Senator **BRENNAN** of Cumberland, the Joint Order **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (4/5/05) Assigned matter:

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Alter Trade-in Allowances Regarding Motor Homes" H.P. 426 L.D. 593

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-75)** (9 members)

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

Tabled - April 5, 2005, by Senator **COURTNEY** of York

Pending - motion by Senator **PERRY** of Penobscot to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**

(In House, March 29, 2005, 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-75).**)

(In Senate, March 30, 2005, Reports **READ**.)

Senator **PERRY** of Penobscot requested and received leave of the Senate to withdraw his motion to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

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

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

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. This bill was put in by my good friend, and former seatmate in the other body, Representative Gerzofsky, and it is a pleasure to work with him. Currently, if you trade in a motor home for another motor home, you will get a tax credit on the value of the motor home that you trade in. Now if you trade in a recreational vehicle or a trailer for a motor home, you will not get the credit for the value of the trailer that you trade in. What this would do is even it out. It would allow you to have the credit if you trade your camper trailer for a motor home and it would allow you to have that sales tax credit for that. Thank you.

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

Senator **PERRY:** Thank you, Madame President, ladies and gentlemen of the Senate. This is a divided report out of the Taxation Committee. I think it's a vote we can all vote our conscience on. If your conscience says this is a matter of

consistency and fairness, then I suppose you ought to vote for it. My conscience says that the discussion here is that we need to broaden the sales tax and reduce income tax. That's the conversation I hear all the time. This goes opposite to what the discussion of the day seems to be. I will be voting in opposition to the motion. Thank you.

At the request of Senator **COURTNEY** of York, Reports **READ**.

On motion by Senator **PERRY** of Penobscot, 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 York, Senator Courtney.

Senator **COURTNEY:** Thank you, Madame President. As all of you saw, the bi-partisan majority report that came out of committee indicated that the majority of the committee felt that there was an existing inequity within the sales tax. Granted that there are tons of inequities within the sales tax, but I think if we're looking to expand the sales tax, as was mentioned by my good friend and colleague from Penobscot, Senator Perry, I think the way to correct the inequity is through a larger piece. I think that this would just create the fairness. Let's pass this bill and make things better for the people now. We'll address any type of expansion in a much larger package. Thank you.

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

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

THE PRESIDENT: The Senator may pose her question.

Senator **BROMLEY:** I would just be interested in the fiscal note on this bill, if someone could enlighten me?

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

Senator **PERRY:** Thank you, Madame President. I do not have a copy of the fiscal note with me. There is a fiscal note. It's relatively modest, which indicates to me that it's not a huge situation. Not a lot of people are getting caught in this web. I don't it off the top of my head.

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

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

THE PRESIDENT: The Senator may pose her question.

Senator **SULLIVAN:** It is unusual that I don't know how I'm going to vote on something, but I do have a question. The Senator from York, Senator Courtney, stated that we will address this later in an expansion of the broadening of the sales tax. If that is true,

would we want to put this forth now and then possibly take it away again if we, indeed, intent to do something with broadening the sales tax. I would ask the Senator from York, Senator Courtney, explain maybe what's going to happen.

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

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. Thank you for the question, Senator. I expect that before this session is over that there is going to be some sort of broader based change in how we get money, whether it's an expansion, or like some us would like to see, a reduction in some taxes. I think that this is a clear inequity and I think it's a clear inequity that needs to be addressed on its own merits. That's what I'm asking the Senate to do today.

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

Senator **PERRY:** Thank you, Madame President, ladies and gentlemen of the Senate. I've just been delivered a fiscal note. It's not quite as modest as I thought. It's \$194,000 in '05 - '06 and goes up to \$327,000 in '08 - '09. I think that indicates to us what the future of this bill will be if we pass it. I think we ought to dispense with it here. Thank you.

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

Senator **SULLIVAN:** Thank you, Madame President, men and women of the Senate. In the answer to the last question I got, that was the first part of my question. It was a two-part question. Teachers like to do that. My second part says that if we pass this for equity, if we are really doing a tax reform or whatever, we would then unpass it before it even became law because we would be doing something else before the end of the session. I'm not sure that we would gain anything from that. If I'm wrong, I would love to have somebody let me know. If we're going to do a bigger thing before the end of the session and we do this, then both of those laws take place, so we really haven't granted anything. Thank you.

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

Senator **BROMLEY:** Thank you, Madame President. I just want to remark that the fiscal note of \$327,463 in the next biennium is significant. I worked very hard with the members of the Appropriations Committee to put a little bit of money into the budget and worked very hard to find just \$200,000 for a statewide program on small business development. I just want to suggest that in the fiscal realities that are before us, we need to be very careful before whimsically enacting these sorts of exemptions. They sound good on paper, but when we actually have to deal with the fiscal reality it's another story. Thank you.

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

Senator **PLOWMAN:** Thank you, Madame President. If I'm unclear, I'd like to be corrected. What I thought I understood that Senator from Penobscot, Senator Perry, to say was that he would prefer that we begin to work on lowering the income tax and that's what we were looking for as an offset. I don't see how one of these could undo the other. I would like to point out that there are other places to buy RVs. Perhaps 150 or 200 miles to the south, where there is no sales tax. Second of all, you may find that people may trade further up the line if they do have a sales tax exemption. It might be a little bit of an incentive. If it's an equity thing, and we already give exemptions, then why shouldn't we give the exemption all the way up the line? I can only assume it's because of a perception that someone is wealthy and I hate to see that be the reasoning. I would ask you to support the majority Ought to Pass and put some equity out there. Thank you.

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

Senator **NASS:** Thank you, Madame President, ladies and gentlemen of the Senate. Equity is a great word. We just struggled with a budget. There was an equity piece in that, if I recall, that had to do with cable television versus direct TV. The reason we were given to support the administration's proposal to provide equity in that area was because of equity. It's the fair thing to do, to raise the tax on those people that got their television service through satellite because we already tax those people who are getting it through cable. This is, hopefully, germane in the sense that now that we're proposing to cut a tax, equity becomes a more difficult issue, apparently, for at least one side of this chamber. So I ask, if equity works one way going up in taxes, why doesn't equity work equally well coming down in taxes? Thank you.

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

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. It is an equity issue. There is going to be a great deal of discussion, I think, in the future in the Taxation Committee in terms of what the equities ought to be in this. I've supported this bill in the past. I'm going to support it now. I don't think that it is necessary to make this a partisan issue. It has to more with a regional aspect. In terms of equity, there are equity issues that go beyond just the difference between a camper trailer and a RV. It has to do with all recreational vehicles and where we extend these equities. The Taxation Committee is the right place for these things to occur. I have no doubt that they will be doing that.

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

Senator **SCHNEIDER:** Thank you, Madame President. I'm rising because I think it is giving false hope. I agree, I think it's an equity issue too. I think that it makes sense. If the financial circumstances were different in our state today, it would make sense to pass this. I think it is giving false hope that it's going to make it through the Appropriations Committee. I think it is sort of

masking the truth. I'm voting against making the change because I think it is not truthful to make a change and have it die on Appropriations. Thank you, Madame President.

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

Senator **STRIMLING:** Thank you, Madame President. Just in terms of the issue of equity, my fine colleague from York, Senator Nass, I would just say that last time we talked about equity, he opposed that. I guess this time I have learned my lesson. I will have to not support this one as well.

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

Senator **COURTNEY:** Thank you, Madame President. I guess I have a little bit to say. First of all, I strenuously object to the good Senator from Penobscot, Senator Perry, questioning the honesty of trying to pass a bill to bring up equity in the tax system. I take offence to that. I think it's unnecessary. I think that we should not do what's right just because we know it's going to get funded. I think we should do what's right and fair because that's how we believe.

With regards to my good friend from Cumberland, Senator Strimling, we certainly have a very difference of opinion and I respect yours and I hope you will continue to respect mine. Thank you, sir.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Courtney to Accept the Majority Ought to Pass 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 (#59)

YEAS: Senators: ANDREWS, BARTLETT, CLUKEY, COURTNEY, COWGER, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, NASS, NUTTING, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, SULLIVAN, WESTON, WOODCOCK

NAYS: Senators: BRENNAN, BROMLEY, BRYANT, DAMON, MILLS, MITCHELL, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, TURNER, THE PRESIDENT - BETH G. EDMONDS

23 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion by Senator **COURTNEY** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

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

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (4/6/05) Assigned matter:

SENATE REPORTS -from the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Suspend or Revoke Licenses and Permits Issued by the Department of Inland Fisheries and Wildlife to a Person Convicted of Operating under the Influence"

S.P. 21 L.D. 82

Report "A" - **Ought Not to Pass** (9 members)

Report "B" - **Ought to Pass as Amended by Committee Amendment "A" (S-71)** (3 members)

Report "C" - **Ought to Pass as Amended by Committee Amendment "B" (S-72)** (1 member)

Tabled - April 6, 2005, by Senator **BRYANT** of Oxford

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

(In Senate, April 6, 2005, Reports **READ**.)

On motion by Senator **BRYANT** of Oxford, Report "A", **OUGHT NOT TO PASS ACCEPTED**.

Sent down for concurrence.

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

Off Record Remarks

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Transfer the Pest Control Compact from the Department of Conservation to the Department of Agriculture, Food and Rural Resources"

H.P. 1098 L.D. 1560

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

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

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Create an Insurance Fraud Unit within the Bureau of Insurance"

H.P. 1099 L.D. 1561

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

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

Senate at Ease.

Senate called to order by the President.

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

Off Record Remarks

On motion by Senator **BRENNAN** of Cumberland, **ADJOURNED**, pursuant to the Joint Order, to Tuesday, April 12, 2005, at 10:00 in the morning.