

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

In Senate Chamber
Friday
April 28, 2006

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

Prayer by Senator Mary Black Andrews of York County.

SENATOR ANDREWS: Good morning. It's a privilege to be able to share a prayer with you occasionally during the past two years. I would like to leave this parting prayer for you by author unknown. It is called Prayer for the Good Life.

May your life be like an oak tree, firmly rooted in your faith of God, nourished by the living water, gently caressed by showers of blessing, and warmed by the sun of the Holy Spirit. May your branches reach out in love, providing food and shelter for all of God's creatures. May your fruit fall on fertile soil, growing into new souls for Christ and expanding your sphere of influence into the future. And when you reach the end of your days, may the timber of your soul be straight grained and fine, worthy of being used by the master builder to expand his heavenly kingdom. Amen.

Reading of the Journal of Thursday, April 27, 2006.

Off Record Remarks

ORDERS

Joint Order

Expression of Legislative Sentiment recognizing:

Edna I. Cayford, of Farmingdale, who is retiring as Senior Office Administrator for the Senate Majority Office. Ms. Cayford has worked in state government for more than 35 years. She began her career in 1971 as a data entry specialist for the Department of Labor. She also worked as a clerk typist I, clerk typist II and legal secretary. She also worked for the Department of the Attorney General and the State Planning Office. Ms. Cayford is highly regarded by her coworkers and past employers and the Senators for whom she has worked. Her competence, experience and good nature have made her a model employee. We extend our appreciation to Ms. Cayford for her dedicated service to the State and wish her well in her future endeavors;

SLS 1111

Sponsored by Senator COWGER of Kennebec.
Cosponsored by Senators: BARTLETT of Cumberland, BRENNAN of Cumberland, BROMLEY of Cumberland, BRYANT of Oxford, DAMON of Hancock, DIAMOND of Cumberland, President EDMONDS of Cumberland, GAGNON of Kennebec, HOBBS of York, MARTIN of Aroostook, MAYO of Sagadahoc, MITCHELL of Kennebec, NUTTING of Androscoggin, PERRY of Penobscot, ROTUNDO of Androscoggin, SCHNEIDER of Penobscot, STRIMLING of Cumberland, SULLIVAN of York, Representative: McCORMICK of West Gardiner.

READ.

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

Senator **BRENNAN:** Thank you, Madame President, men and women of the Senate. It is with deep mixed emotions and great ambivalence that I'm here today to speak about Edna Cayford. Edna has been a wonderful employee and a wonderful asset to the Majority Office. I'm truly sad that she has decided to retire. I'm still hopeful that she may change her mind before the end of the day. She has until 5 o'clock. We still are holding out some hope.

The sentiment was very nice and it did a good job in capturing some of the historical things that Edna has done in her service to state government, but what it really doesn't capture is what a wonderful person she is. Often times we have people in positions that are technically competent, and certain Edna was very technically competent, but also what brings life to a position is somebody's ability to connect with other people, treat other people respectfully, and to help them with problem solving. Every morning on my way to Augusta I would call the Majority Office. Edna would answer the phone and I'd say, 'How are you doing, Edna?' She would say, 'I'm wonderful today.' That was how she would treat the whole day and everybody else, as if it was a wonderful day and that she was there to help and to serve everybody, not only in our caucus but everybody in this building. I will truly miss her. I will do the best I can lobbying between now and 5 o'clock for her to change her mind. Under the assumption that I will be unsuccessful, I again want to thank Edna for the years of service she has given to Maine State Government and thank her very much for the work that she has done for the Majority Office for the last two years.

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

Senator **GAGNON:** Thank you, Madame President. I also need to echo the sentiments of the Majority Leader. Edna's been a very special person, particularly to me. As we've tussled and teased each other for the last few years, she's really put up with a lot with me, but I have to say that I've probably have put up with a lot from her also. She's great to tussle with and Sally is a testament to what we do as we jockey back and forth. As a matter of fact, the day that she decided that she was going to retire was a couple of days after I had announced I wasn't running for election. The first thing she said, 'If I had known.' I, of course, said the same thing. That's the type of teasing that went back and forth. She's been very much of a, I don't want to say mother, but I want to say maybe a big sister when taking care of me and some of my health things that she's had to help me with and the

little snacks here and there and making sure that I'm not doing the wrong thing. I truly appreciate that. All my kids know her and all my family knows here quite well.

One of the things that was in the Morning Sentinel today was an editorial written by a Colby government professor that talked about how civil we are in Maine, that our politics are very civil. He attributed that to the fact that, unlike other places, particularly like in Washington, we are face to face. Our government is set up and our legislature is set up so that most of the politics are face to face and it's very difficult to be uncivil when you have to really deal with the person and have to be friends with them. There is a sort of family atmosphere that is what we are all about and what we are doing here. Edna certainly took all of us, every member of the caucus, as a member of her family. She took care of us and made sure we were okay. She was concerned when people didn't show up on time. She was not just concerned because the Whip wanted to make sure you were in your seat, but a true concern that something might have happened to someone on the highway. She's a peach. Thank you, Edna.

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

Senator **STRIMLING:** Thank you, Madame President. I just want to say thank you because every morning when I would call in I would always hear the greeting, 'Helloooo' and that just made my day.

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

Senator **COWGER:** Thank you, Madame President and colleagues in the Senate. Edna is my constituent. I have the wonderful pleasure of having her in my district. As you can imagine, my district being around the capital, I probably have more lobbyist per capita than anybody in this room. I also have an awful lot of people that work in this building and work for state government. It isn't often that you have a constituent who you really enjoy talking to on a daily basis. I can tell you that most of my constituents, at one point or another, whether they work here or are lobbyists, call me and want to talk to me about politics. Edna has been just a gem in that regard. She has kept her opinions to herself most of the time and hasn't tried to twist my arm an awful lot. I really appreciate that. Edna has been here for 35 years in state government. I think that is an amazing accomplishment and I want to thank her personally for her many years of service. I understand, Edna, that you have a card group that has not met for some time and as you venture into retirement now I'm sure you will be able to reactivate that. You'll be on the winning side much of the time, I'm sure. Thank you very much for your service.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. I just have to say Edna is a peach and we are all going to miss her candy dish. The thing that I always noticed about her candy dish was that it attracted everybody in the building. It attracted Democrats and Republicans and people from both ends of this hall. That's what Edna was about, bringing

people together and making their lives a little easier. We will miss you very much. We thank you.

PASSED.

Sent down for concurrence.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the Chamber Edna Cayford of Farmingdale. Would she please rise and receive the greetings of the Maine Senate.

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Make Minor Technical Changes to Maine's Spending Growth Benchmarks"
H.P. 1350 L.D. 1909

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1063).**

Signed:

Senators:

ROTUNDO of Androscoggin
MARTIN of Aroostook
NASS of York

Representatives:

BRANNIGAN of Portland
DUDLEY of Portland
CRAVEN of Lewiston
FISCHER of Presque Isle
LERMAN of Augusta
MILLS of Farmington
MILLETT of Waterford
NUTTING of Oakland
BOWEN of Rockport

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

Signed:

Representative:

CURLEY of Scarborough

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-1063).**

Reports **READ.**

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

READ ONCE.

Committee Amendment "A" (H-1063) **READ** and **ADOPTED**, in concurrence.

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

ENACTORS

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

Emergency Measure

An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2006-07
H.P. 1437 L.D. 2039
(S "A" S-630 to C "A" H-952)

This being an Emergency Measure and having received the affirmative vote of 23 Members of the Senate, with 11 Senators having voted in the negative, and 23 being less than two-thirds of the entire elected Membership of the Senate, **FAILED ENACTMENT**, in **NON-CONCURRENCE**.

(See action later today.)

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 17: Rules Regarding Proof of Ownership by Employers Employing Foreign Laborers To Operate Logging Equipment, a Major Substantive Rule of the Department of Labor
H.P. 1501 L.D. 2109
(C "A" H-1040)

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

Acts

An Act To Make Minor Substantive Changes to the Tax Laws
H.P. 1218 L.D. 1711
(C "A" H-974)

An Act To Implement Recommendations Concerning Temporary Guardian and Conservator Laws
H.P. 1475 L.D. 2087
(C "A" H-1023)

An Act to Amend the Laws Governing Home Construction Contracts To Increase Consumer Awareness
H.P. 1477 L.D. 2089
(C "A" H-1006)

An Act To Strengthen the Collection of the Tax on Tobacco Products
H.P. 1485 L.D. 2093
(C "A" H-1009; H "B" H-1022; H "C" H-1042)

An Act Regarding Prepaid Contracts for Heating Fuel
H.P. 1493 L.D. 2101
(C "A" H-1025)

An Act To Extend the Alternative Delivery Methods Pilot Program for Certain School Construction Projects
H.P. 1505 L.D. 2113

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

An Act To Issue Certificates of Title for Single-unit Mobile Homes
H.P. 1457 L.D. 2061
(C "A" H-1038)

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

An Act To Accelerate Private Investment in Maine's Wireless and Broadband Infrastructure
H.P. 1471 L.D. 2080
(C "A" H-1018)

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

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

Senate at Ease.

Senate called to order by the President.

On motion by Senator **DAVIS** of Piscataquis, the Senate **RECONSIDERED** whereby it **FAILED** to **ENACT** the following:

Emergency Measure

An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2006-07
H.P. 1437 L.D. 2039
(S "A" S-630 to C "A" H-952)

(In House, April 27, 2006, **PASSED TO BE ENACTED**.)

(In Senate, April 28, 2006, **FAILED PASSAGE TO BE ENACTED**, in **NON-CONCURRENCE**.)

On further motion by same Senator, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence.

Resolves

Resolve, Directing the Department of Health and Human Services To Amend Its Rules To Ensure Efficiencies in the Billing and Delivery of Outpatient Clinical Services
H.P. 1397 L.D. 1995
(H "A" H-1045 to C "A" H-1033)

Resolve, To Extend the Reporting Deadline for the Task Force on Citizenship Education
H.P. 1504 L.D. 2112

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

Senate at Ease.

Senate called to order by the President.

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 (4/26/06) Assigned matter:

Bill "An Act To Implement the Recommendations of the Freedom of Access Advisory Committee"
H.P. 1503 L.D. 2111

Tabled - April 26, 2006, by Senator **GAGNON** of Kennebec

Pending - **PASSAGE TO BE ENGROSSED**, in concurrence (In House, April 14, 2006, **PASSED TO BE ENGROSSED**.)

(In Senate, April 26, 2006, **READ A SECOND TIME**.)

PASSED TO BE ENGROSSED, in concurrence.

The Chair laid before the Senate the following Tabled and Later (4/27/06) Assigned matter:

SENATE REPORTS - from the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Save the Marine Technology Center and Strengthen Maine's Boatbuilding Workforce"
S.P. 746 L.D. 1948

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-637)** (6 members)

Tabled - April 27, 2006, by Senator **DAVIS** of Piscataquis

Pending - motion by Senator **ROTUNDO** of Androscoggin to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report

(In Senate, April 27, 2006, Reports **READ**.)

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

Senator **RAYE:** Thank you, Madame President, men and women of the Senate. This legislation represents one of the most important issues facing Maine's boatbuilding industry and one of the most critical challenges facing Washington County. It will determine the survival of the Marine Technology Center, more commonly known as the Boat School. It is the state's only public program that trains workers for Maine's boatbuilding industry. I introduced this bi-partisan legislation along with my colleagues in the Washington County delegation, the Senator from Hancock, Senator Damon, and the Senator from York, Senator Andrews. We did so in response to continued funding cuts that have reached the point that, absent our intervention, the Boat School will close at the end of this school year. The decline in state support of the Boat School in recent years has produced painful results. It has also been deeply puzzling given the crucial nature of boatbuilding to this state. Maine's boatbuilding industry is a \$650 million a year industry, encompassing some 450 companies and 5,000 jobs. Currently it is the only growth sector in Maine's manufacturing economy.

Boatbuilding is also Maine's first industry, dating back to the 18th century, and remains a premier Maine industry in the 21st century. Throughout that proud history Maine boat builders have set the standard for quality and for more than three decades many of those standard setting boat builders have been products of the Boat School at Eastport but the school is now in jeopardy despite the widespread understanding that the boatbuilding industry desperately needs trained workers, despite the tremendous importance of boatbuilding to our state's economy, despite the fact that boatbuilding is the one growth area of our

manufacturing economy, and despite the fact that it is the only, and I want to emphasize this, it is the only boatbuilding program in the entire Maine Community College System. Not only is it the Community College System's only boat program, it is Maine's only public post-secondary boatbuilding program period. It is troubling that our state is on the verge of allowing this institution to close for the lack of state funding. A facility that once boasted a full-time Director, a librarian, two full-time support staff, a full-time custodian, a maintenance mechanic, and seven faculty positions now has just one instructor, one part-time janitor, one part-time clerical person. It was formerly able to offer a full range of vital programs, including marine mechanics which is critical to the industry, as well as boatbuilding with options for specialization in design, composite construction, boat restoration, traditional boatbuilding, boat handling, and safety.

Over the course of the past 10 years, as the Community College System has experienced continued fiscal difficulties, the Boat School has suffered inordinately in terms of cuts, virtually gutting its ability to provide the core programs necessary to meet the needs of this vital industry and crippling its ability to recruit students. Today it is down to just boatbuilding and we need to regain lost ground. It has been death by a thousand cuts. The number of course offerings has been reduced, instructor positions eliminated, and even the full-time janitor fell victims to cuts as the Boat School felt the full brunt of cuts in the Community College System. It no longer has a Director, a position that was crucial to its past success and vitality and a person who was responsible for leadership and for a crucial role of recruiting many of the students coming from out-of-state and thus paying higher tuition. This vicious cycle has resulted, and not surprisingly, in reduced enrollment even as the need for trained workers remains high. Ironically, one of the principle reasons for reduced enrollment is that the industry is so desperate for workers that they are hiring students before they can even complete the program. That's how great the need is in the industry.

While some of these cuts took place under the former Technical College System, they have escalated to a crisis since the transition to the Community College System. This is, for many, a microcosm of the concerns that surrounded this transition. If allowed to close the Boat School will literally be the poster child for the argument that vital trade programs are being diminished at the expense of less expensive liberal studies. This is something important for the Senate to understand. This facility was gifted to the State of Maine, not to the Community College System, for \$1 for use as a boat school. The prospect of pulling the programs of the Boat School from this magnificent waterfront facility, abandoning that, and shoe-horning a program into a cramped retrofitted space that was once occupied by a carpentry program, and is literally no larger than a two-car garage, is preposterous. The Eastport facility has a deep-water pier, a boat launch ramp, and offers the ability to bring large boats as large as a schooner into the building for restoration training. There is no similar capacity like it. Moving the program to Calais would remove the program from the waterfront and it would be impossible to replicate the existing infrastructure without enormous cost. There is virtual unanimity in the industry that such a move would be tantamount to abandoning the boatbuilding program. One has to wonder if the one and only boatbuilding program in the entire system across this state were allowed to suffer a virtual collapse and be forced to vacate its invaluable waterfront facility gifted to the State to operate out of a small

space on a college campus what does that say about the place of trades in the system, especially the State's premier trade.

Any legislator or any Senator who has visited Washington County as part of the economic development tour that we take at the beginning of each legislative session has likely visited the Boat School. It's always a key stop on the economic development tour in our part of Maine. That is one reason why the very first vote of the Governor's Taskforce on Washington County Economic Development was to endorse this bill. It's also why the Sunrise County Economic Council has given it their strong endorsement.

I do understand the fiscal constraints faced by the Community College System. We do need to make a greater financial commitment to higher education so we don't see results such as we are looking at today. The only institution in the entire system that faces outright closure is the Boat School. With the state's only boat school struggling under the auspices of the Community College System it's important to note that in the past few days both the University of Maine System and the Maine Maritime Academy have weighed in. Vice-Chancellor Elsa Nunez of the U Maine System and President Leonard Tyler of the Maine Maritime Academy have both endorsed this bill and expressed their commitment to working to explore partnerships with the Community College System to strengthen the Boat School in future years. This exciting collaboration is the most promising development for the Boat School that we've seen in a very long time. It will also help address a concern of the industry, which has been very troubled by the school's decline. That message came through loud and clear at the hearing and subsequent work session where those testifying in strong support included some of the most preeminent boat builders in Maine, including Ralph Stanley, Jock Williams, and others. It has spawned significant sentiment within the industry and locally to separate the Maine Technology Center from the Community College System, but that is something I hope we can avoid. Rather, we have an opportunity to develop new partnerships that involve the University of Maine, Maine Maritime Academy, and the Community College System. That can only happen if we approve this bill, keeping the Boat School open for the next year to allow this vital collaboration to occur and serve the needs of the industry.

In conclusion, I would emphasize that most Community College programs are replicated elsewhere in the system. Not so with boatbuilding. It's one of a kind. Please don't let this unique and vital program be further diminished. The System's proposal, should the bill not pass, is to move the program from the Boat School's magnificent oceanfront facility with its deep-water pier, boat launch ramp, travel lift, and over-sized bays; a facility able to accommodate a schooner and jam it into a small building on the Calais campus. I guess their plan will be to build canoes. That would undermine the exciting new initiative to train incumbent workers at remote sites up and down the coast of Maine, something that is vitally important to the industry. I hope you will join with me to reject the pending motion, support L.D. 1948, support Maine's oldest and fastest growing industry, and support an institution that in the unanimous opinion of the Governor's Taskforce on the Washington County Economy is vital to my county's economic future as well as to the economic future of this industry. Please send it to the table so it has an opportunity to compete for funds.

On further motion by same Senator, supported by a Division of one-fifth of the members near and voting, a Roll Call was ordered.

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

Senator **ANDREWS:** Thank you, Madame President and fellow members of the Senate. I will be brief. I cannot be as eloquent as my fellow Senator from Washington, Senator Raye, but I have been involved in trying to deal with the issue, the Boat School, for about four years. Someone might ask why someone in York County is so concerned about a boatbuilding school in Washington County. I have four communities in my district that are on the water. I have been heavily lobbied by the boat yards in my district. This school should not be moved. You can't teach boatbuilding, boat maintenance, boat handling, and everything that takes place on the water in a building the size of a two-car garage. This is a traditional Maine industry and we're losing so much of our heritage and so much of our past history. Please vote against this motion and save another aspect of Maine history. Thank you.

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

Senator **DAMON:** Thank you, Madame President. I can neither be as eloquent as my colleague from Washington, Senator Raye, nor as brief as my colleague from York, Senator Andrews. I was pleased to be asked to co-sponsor this piece of legislation. You have heard about the history of boatbuilding in Maine. Indeed it goes back well before our statehood and continues today. During the course of that history boatbuilding has changed, as has most occupations in Maine. Now the school that was created, as I recall, in the late 1960s or early 1970s that was focused on one portion of boatbuilding and construction has had to retool. This has been a very tough decision for President William Cassidy of the Washington County Community College. He has gone through great anguish in trying to keep a school and a portion of his school that is so important to our Maine economy, so important to those who can attend it and enter a career of boatbuilding, and at the same time to keep his institution functional. I've had numerous opportunities to meet and discuss this issue with President Cassidy and I know his commitment and I know what we are trying to do. I have great faith that if we will enter into this partnership through our part to play here with this bill today that he can be successful. When he is successful we'll be successful as Maine people.

As an aside, I serve on a board, a non-profit board, that has the capability of awarding scholarships each year to Maine students who are going on to post-secondary education. The focus of those scholarships, because of the location of the institution, is in Downeast Maine; the island communities and the coastal communities of Downeast Maine. I have recently worked with that organization to provide, to recommend, some preference be given to those students who want to enroll in this boatbuilding school. We are working and I hope that we can achieve my recommendation because through those kinds of efforts, through the non-governmental, non-profit, and profit side of this equation, I really do think we can pump the necessary life back into this and make this functional again.

I fully support the issue and I would urge the rejection of the pending motion. I'll finish by saying that when I had the

conversation with my good colleague and friend from Washington, Senator Raye, recently about this school and about how we are going to work to keep it, sustain it, and to grow it, I asked him how we were going to get to it. I think he was talking or thinking more in terms of how we were going to get to it through this bond package, this financial package. I said, 'No, no. How are we going to get to the school?' He said, 'Well, by water.' I said, 'I think we'd probably have to get there by water if we don't fix the road to get there.' Thank you, Madame President.

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

Senator **BROMLEY:** Thank you, Madame President and colleagues in the Senate. I will be brief. Speaking as the Chair of the Business, Research and Economic Development Committee, I just want to point out once again that the things that are important for us to embrace economically are when we are able to exploit a unique asset, whether it be our forests, our cold water in the Gulf, our fisheries, or in this case, our boatbuilding heritage, and also when we are able to embrace innovation. As some industries have languished, often times it's for lack of innovation, educated workers, and trained workers. We would not want to make the same mistake in this case. Also there are some emerging partnerships and collations that we want to support. When we have scarce resources it's really important. I can't underscore this enough, for us to collaborate and co-conspire with the Maine Marine Research Coalition, the Boat Building Coalition where we have world-renowned prizes being won for our design and manufacture of boats, and also the sort of tender but emerging partnerships between the University System, the Maine Maritime Academy, and the Community College. I ask you to join some of us in opposing the pending motion. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Rotundo to Accept the Majority Ought Not 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 (#462)

YEAS: Senators: BRENNAN, ROTUNDO, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, BARTLETT, BROMLEY, BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK

3 Senators having voted in the affirmative and 32 Senators having voted in the negative, the motion by Senator **ROTUNDO** of Androscoggin to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **FAILED**.

The Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-637) **READ** and **ADOPTED**.

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

Ordered sent down forthwith for concurrence.

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Create Mandatory Minimum Sentences for Persons Convicted of Certain Sex Offenses against Victims under 12 Years of Age"
H.P. 1224 L.D. 1717

Reported that the same **Ought to Pass as Amended by Committee Amendment "C" (H-1058)**.

Signed:

Senator:
NUTTING of Androscoggin

Representatives:
BLANCHETTE of Bangor
HANLEY of Gardiner
CHURCHILL of Washburn
GERZOFISKY of Brunswick
SYKES of Harrison
GROSE of Woolwich
PLUMMER of Windham
GREELEY of Levant
PARADIS of Frenchville

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "D" (H-1059)**.

Signed:

Senators:
DIAMOND of Cumberland
CLUKEY of Aroostook

Representative:
DAVIS of Augusta

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "C" (H-1058)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "C" (H-1058)**.

Reports **READ**.

Senator **NUTTING** of Androscoggin moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "C" (H-1058)** Report, in concurrence.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING:** Thank you, Madame President, ladies and gentlemen of the Senate. This bill has had quite a history this session. Some groups lobbying this bill and some legislators in the other Body decided nothing had to be done for a while and tried to kill the whole issue. It's now before us again. I first want to thank both the Senator from Cumberland, Senator Diamond, and the Senator from Aroostook, Senator Clukey, for helping to make sure that we are at least debating this bill today because I had apprehension that maybe we'd never debate this bill this session.

I'm supporting the Majority Report for two reasons. To me it does really strengthen our penalties in an effective way rather than an ineffective way. The Majority Report sets a basic 20 year sentence for those heinous crimes against children under 12 years of age and it can be up to life. It's the Judge's discretion, but it starts at 20 years as a basic sentence. I'm convinced, from the material I saw in committee from District Attorneys, that this type of sentencing will actually result in more years served behind bars than a mandatory minimum sentence because it will lead to less plea bargaining. The other reason that I strongly support this Majority Report is because under current law, on a first offense such as this, the mandatory probation period is 18 years. This Majority Report says that this probation after a first offense of a crime as bad as this will be life. Two years ago for a second offense we made probation life. To me this moves the ball ahead further.

I would urge your support of this Majority Report. I think it is the most effective report in front of us today. Thank you.

Off Record Remarks

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

Senator **DIAMOND:** Thank you, Madame President and men and women of the Senate. This is a very difficult issue for a lot of people in this Chamber. This is my 30th year in State Government. It's one of those things where I got elected in 1976 to the House of Representatives and I have been up here in one form or another, much to the chagrin of many. I think we all learn in our legislative careers that there is usually one thing, no matter how long we are here, that grabs us and is most compelling to our experience. For me this is that issue. This is the issue of gross

sexual assault against children under 12. It's captured my heart, my mind, and my gut. It puts me in a position contrary to many people who I usually agree with, but I can't help it.

Part of my career I served as EMT for the Windham Rescue Unit. Often times we'd be called out to 1055, car accidents, in the evenings. Usually it's always in the middle of the night. You go out and after a few years it becomes routine. What didn't become routine for me was when little kids were injured, terribly injured, in these car accidents. You go home after that and you have reruns and reruns. I recognize that this is a weakness that I have.

This bill and this report, L.D. 1717, deals explicitly with children being harmed. Gross sexual assault is defined in our statutes, Title 17A, and is so graphic that out of respect for this Chamber I'm not going to read the definition that is in our Maine Statutes. To me, personally, it is not appropriate. It's got be, once applied against a young child, almost as bad as death. The Criminal Justice and Public Safety Committee, through our jurisdiction, reviewed the Department of Public Safety. I remember talking to you about the computer crime taskforce. I remember talking to you about how their job has been overtaken by the huge amounts of child pornography now on the internet and how their backlog has gotten from 80 hard drives in January to 133 hard drives as of yesterday that they can't get to or download because child pornography is growing so fast.

I decided to visit that place again and see what this is really all about, as an up close view. I think that was a mistake. That's something that I shouldn't do and should not have done because when I was there my question was, which was a routine question, 'How can you tell the difference between a real photo, a real image, and one that's been digitally made up?' They said, 'Well come over here and we'll show you.' They had 18 pictures on a screen, one that was digitized and one that was real. One that day, looking at those pictures, I think I came as close to the edge of Hell looking in that anyone could ever come. It's pretty bad stuff.

In my opinion, what we need to do, because it is so heinous, is to understand the reality. The reality of what these kids go through. Thank goodness it is not a philosophical argument. It's much worse than that. I would ask you to think long and hard about this, that we could possibly get beyond the feelings of judges and DAs and see what's really happening to these kids because they are not desirous of older kids, teenagers, they are desirous of prepubescent. That's who they are dealing with.

The NCSL has stated through some studies they have done that Maine has the weakest penalties for gross sexual assault against children under 12 in New England. We're also the 8th weakest in the nation. Even the activists that opposed the original bill agree that sentencing is too light. The average is 5 years. When you see these tortured little faces, and you know what they are going through, I think it's important for us to focus on reality. For me gross sexual assault is not a term any more, it's a vision. It's one of those reruns. I think it's very important that we look long and hard about what's really happening, happening around us every day. I think it's time that we stopped the pain and that we need to do more than simply doing what we're doing now which is putting an average of 5 years in jail.

We had a young man in my Senate district that was attacked last September in the middle of the afternoon in his own house. He was attacked so bad and ravaged so badly that I'm sure he'll never overcome it. The worse part of this whole experience, according to his family, was when he went to court they plea bargained and he was sentenced to 15 years, all but 8 and with

good time he's out in 6, before the 10 year old is even out of high school. The system is broken, ladies and gentlemen, and we need to fix it. Thank you.

Off Record Remarks

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

Senator PLOWMAN: Thank you, Madame President, men and women of the Senate. I want to thank the Senator from Cumberland, Senator Diamond, for saying that sometimes there is an issue that just grabs you when you get here. You feel badly as you go by year after year seeing that the situation doesn't change. I was first elected in 1992 and in 1993, during a hearing and listening to adults describe the abuse that they suffered as children at the hands of adults, I literally had to put my head under my desk because I didn't think my sobbing was professional. I had to leave the room. When I was offered the opportunity to review the records of the Baxter School for the Deaf I had to decline and I asked my committee members to keep me in mind but that I just couldn't do that. I've worked for prosecutors and I've worked for defense attorneys. In one of my jobs I had to photocopy all of the discovery to be passed on in a case where five children under the age of 12 were used in a sex ring. I had to ask to be taken off that assignment. I couldn't sleep. I had a 3 year old and I was pregnant. I said I could not do that. A minimum mandatory of 25 years would be for a victim to suffer would be a kindness. If you could tell a 6 year old child that in 25 years it's over, that they were going to feel better, and that they would have the life that they had before, I think a victim would grab that and say thank you because they would see an end in sight. They don't. It effects the way they grow up, the way they raise their children, the decisions they make, the ability to interact with their spouse or partner, and it torments you. I know because I was one of those kids under 12. I've never said this publicly before, but I'm 45 and I wish that my sentence was over but it's not. I'll tell you, you don't think that your body remembers, but your body stores memories. One day my 4 year old walked up to me as I was on the phone and instead of patting me his hand came further down. I threw him across the kitchen. In the most horrific moment of my life I threw my child across the kitchen because that touch brought back a memory so horrific that my mind could not take it. I went into counseling because you can't do that. My sentence isn't over. It's not over. When you're talking about 25 years being enough, I'm waiting for civil commitment. I'm waiting for the day you tell the monster that is on our streets that they will serve their time and then they will face a psychiatrist who will tell them, guess what, they are still the sick person that they were when they committed the crime and we will not let them back out on the streets. I think we need Jessica's Law and I think we need civil commitment. Then I can let my daughters ride their bicycles down the street. My daughters cannot figure out why I never let them out of my sight. They don't know, but I know. Sometimes my daughters tell me they hate me and I say, 'You can hate me every day of your life if I keep a monster away from you.' That's my job and our job is to protect all of those children. I've been waiting since 1993 for this

legislature to do something. I think it's time. I would ask you to not accept this report. Sending a small message is another slap on the hand. I don't know how we arrived at this point, I don't know, but it's time to move forward and make this state a place where the monsters don't run free and the children hide. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING:** Thank you, Madame President, ladies and gentlemen of the Senate. I'll be very brief. I agree. I think the signers of the Majority Report agree that the sentences are too short. The Majority Report received an overwhelming vote of support in the other Body. I know this is a very emotional subject. If you have a minimum mandatory sentence you have a drastic increase in the number of cases that go to trial. That means you put the kids through this whole process again. The District Attorneys and the Maine Coalition Against Sexual Assault both support the Majority Report.

I just want to read one short section from the Maine Coalition Against Sexual Assault letter. 'Like the Maine prosecutors, given the existing court process, including the difficulties of proving their cases, we believe that mandatory minimums may actually result in shorter sentences and pleas to lesser crimes.'

The last thing I want to say and just touch upon one more time, once someone has served their term, albeit far too short up until this point in this state, those that are on probation have not reoffended any more than when they were in jail. That's why the lifetime probation in the Majority Report, I believe, is also going to radically increase our children's safety. Thank you.

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

Senator **CLUKEY:** Thank you, Madame President, ladies and gentlemen of the Senate. Hardly a day goes by in the media where we don't see a case involving a young child. In a large majority of these cases we see sentences either after the finding of guilt or involving plea bargains where the offenders sentence is greatly reduced. In Maine the very worst of all these assaults is the crime of gross sexual assault. According to the Maine Coalition Against Sexual Assault the crime of gross sexual assault, as reported to the police, occurs every 28 hours in Maine. Particularly important to this bill, children under 12 years of age account for 34% of all sexual assault victimizations in this state. Maine has a history of horrendously short sentences served by perpetrators of these horrible crimes mostly because of plea-bargaining. Although I agree with the statement, these are not my words but the words of the Maine Coalition Against Sexual Assault, these people who commit these crimes are generally sentenced to less time than people who are convicted of lesser crimes.

Over the last several months I've saved almost every newspaper article that I've seen and cut it out. I have a whole briefcase full. I went back into the library, who goes back several years, and researched some of these. You'll be happy to know I only selected two to mention to you today. Because of our guests I've decided not to even go into those two.

Judge Waltham of the Maine Supreme Court said these words, 'Taking the bargain out of violence is the most common cry for justice that I hear from victims of violence and their

families.' He also said, 'A violent offender should face the full-force of the law and receive no bargains and should entertain no expectations of a negotiated settlement.' According to the National Conference of State Legislatures, Maine has the most lenient sentence in New England for the crime of gross sexual assault against a child under 12. It has one of the eight weakest penalties of all 50 states for sex crimes committed against children. I believe eight states have now enacted Jessica's Law in the United States and about 20 are leaning in that direction. Maine is one of eight states that are considered to be going in the wrong direction. Interviews of many of these offenders reveal that during their lifetime they admit to offenses against as many as 150 different victims. The study that was done in 1987 of non-incarcerated child sex offenders, that interviewed 561 offenders, revealed that these 561 offenders resulted in sexual acts against 195,407 child victims. Some of the most respected risk assessment tools specify that the commission of sex crimes against victims under 12 years of age is a key risk factor for increased recidivism. I've been told that the Maine Prosecutors are opposed to mandatory sentences. I believe the Prosecutors in these cases need to prepare these child witnesses much better than they have in the past. The Maine Coalition Against Sexual Assault recognized these problems and suggested mandatory training for the Prosecutors on developing prosecution skills and strategies in cases of sexual abuse. The Coalition understands that sex offenses are among the most difficult cases to prosecute and know that this leads to an increase in the likelihood of plea-bargaining.

I'd like to read an article that was in the paper the other day. This was a statement from Bruce Colton. He's the President of the Florida Prosecuting Attorney's Association. He disagrees with the Maine Prosecutors. He says that in the year that this has been in effect in Florida he and the other prosecutors there believe it has been very successful. 'It's not going to tie our hands,' he said, 'It's going to tie the judges hands when they have a conviction.' He also said that under the Florida law prosecutors can still bargain as they still can in Maine because instead of bargaining on sentencing they can bargain on the crime. Unlawful sexual contact is a lesser offence and if a prosecutor has a situation where the child can't testify they can bargain that down to unlawful sexual contact if he wants to. He also said, 'It means that when we do have a case we win we'll see that the abuser is put away for 25 years.' He said that is a good thing.

The legislature has been concerned about these sex crimes for a long time. They have had at least two comprehensive studies that I'm aware of in the last five years. We had 14 bills in the last session come before our committee regarding sex crimes. We killed them all. Admittedly all had some drafting problems but we could have probably amended some of them. In the Senate we did pass a restriction on where a registered sex offender could live, but it died in the other Body. We did meet last summer. We had three meetings. I remember the meetings well because I drove 1,300 miles last summer to get to these meetings. We actually talked about several bills. Some have already passed and hopefully they will do some good. The cornerstone of the whole thing, as far as I'm concerned, was L.D. 1717, Maine's version of Jessica's Law and mandatory minimum sentences. We had public hearings, work sessions, and we did a lot of work on it. We reported it out five weeks ago. It's been sitting on the table in the other Body for that length of time. Two days ago it was sent back to the committee with an amendment that actually replaced the original bill. No public hearing, no work sessions,

and very little discussion. This is major legislation for the people of Maine with none of that taking place.

We're still not going to be able to discuss Jessica's Law now because the original bill that was replaced by the Majority Amendment has been moved. The amendment that replaced the bill has no mandatory minimum sentences even for second or subsequent offenses. The 20 years that were spoken of can go down as well as up and probably will go down. It sets up criteria where the court considers sentencing factors, both aggravating and mitigating, appropriate to the case. There are several factors to be considered; one is a problem as far as I am concerned and that's the character of the offender. An adult has been convicted of raping a child and you're going to reduce the sentence because of his character. I don't know how the rest of you feel about that, but I'd hate to go back to my constituents and try to explain that one to them.

Madame President and colleagues of the Senate, if you vote for the Majority Report you're not voting for Maine's version of Jessica's Law. For these reasons I ask you to defeat the current motion so that we can go on to pass the Minority Report, the true Jessica's Law, the law that has a 25 year mandatory minimum for first offence, mandatory probation for the rest of their lives, and on second offence a mandatory life imprisonment. Thank you, Madame President.

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

Senator **STRIMLING:** Thank you, Madame President. I rise in support of the motion before us and I rise in support of the motion before us because of the stories that we are hearing this morning. As the former Chair of the Criminal Justice Committee we listened to the hearings, we listened to the testimony, hours and hours, and the stories. I have personally experienced the pain of what children go through. Because of that I rise in support of this report because this report will protect our children better. This report will make sure that more people get behind bars, more people are kept off the streets, and that more people will get the help that they need. We know that minimum mandatory sentences are not effective. People run from them. They try to find alternative ways. Anything they can do because when you create a minimum mandatory they have no options, they have nothing to lose. We know that means that less people will be convicted and less people will be put behind bars. There is no doubt in a bone in my body that if we support the Majority Report here our children will be safer. We will have better sentences. One part of this amendment, which I think is brilliant, requires our judges to write down exactly why they make a determination that they make in terms of the sentence that they are imposing. That gives us the accountability that we need to look at our judges and ask why they made the sentence that they did. Twenty years is what we expect. If they deviate from that, why? Then we can look at it and make a determination as whether that was appropriate or not. I think we all know that when we use a broad sweep and when we try to say one size fits all it doesn't work when it deals with school funding, it doesn't work when we deal with tax breaks, and it doesn't work when we deal with public safety issues. I ask you, for the sake of our children, for the sake of the damage that this does, and for the sake of making sure that less children are hurt, please support the Majority Ought to Pass Report. There will be more people put behind bars, who will not reoffend, if this report passes. Thank you, Madame President.

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

Senator **DAVIS:** Thank you, Madame President and colleagues in the Maine State Senate. I thank each one of the speakers this morning. Some heartfelt testimony, emotional testimony, and each one has been eloquent. I especially thank the Senator from Cumberland, Senator Diamond, for what he said about his feelings. It stirred feelings in me, Madame President. I go back a little further than him. He only has spent 30 years in public service. I started in 1970. I was a policeman in the town of Newport. I was a State Policeman for almost 24 years. I ran a jail for 3-1/2 years. Then, depending upon the opinion of some, the good folks showed good intelligence and elected me to the State Senate. I felt early in my career, as a matter of facts just a few months into my career, the same pain as the Senator from Cumberland, Senator Diamond, spoke of. I stood in the middle of the road one afternoon down in Biddeford Pool and a little girl, 6 or 7 years old, died at my feet. I can still remember, and it haunted me for month, the shrieks of her father upon the death of his daughter. I can remember the babbling of a drunk standing in the ditch, wondering what all the confusion was about. I know what the Senator from Cumberland, Senator Diamond, is speaking of. I know exactly. That was drunk driving that caused that. The drunk was on bail for another drunk driving charge that he'd been convicted of. It was on appeal. Not so much of that goes on today. The legislature has passed laws and Governors, like Governor Brennan, Governor McKernan, Governor King and others, have taken this very seriously.

I also know the pain, Madame President, of dealing with boys and girls and men and women who have been abused sexually and have had sexual crimes committed against them. I also have experienced the great frustration of having a crime happen, someone go to jail for 10-days, and then within a year read about them being indicted again for the same crime over again. It does happen over and over and over, just as in this handout. Just go down through it. Over and over and over. I submit to you, Madame President, and I believe that we should defeat this motion and let this bill go back to the other Body. If the other Body decides they want to stay with their position, then I will vote to stay with their position because this amendment is better than nothing at all. Madame President, our children need protection. We need to send a message to the District Attorneys and the judges that what's on this paper is not acceptable. Thank you very much.

Same Senator requested a Roll Call.

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

Senator **DOW:** Thank you, Madame President, ladies and gentlemen of the Senate. Images from Hell is a good description for what is all over the internet today. The good Senator from Cumberland, Senator Diamond, was right to describe things that way. It is just an indication of the type of problem that we have in the world. Although it is difficult to control everything that goes on in the world, we can control what goes on in the state of Maine. It is difficult to watch and hear or even discuss the abuse of children, even I have a hard time doing it. I remember another Jessica. I remember Baby Jessica, the story of the child that fell

into the well pipe in Texas. It ended up coming out good. She got out after two or three days of torture. I can't watch that movie. I even know how it comes out, but I can't watch it. American movies with violence, I can watch some of those because I know in American movies if there is a child in the movie the child isn't going to be harmed. My wife and my family was watching a movie one day and my wife said, 'Is this child going to get harmed?' I said, 'No, this child isn't going to get harmed.' Then all of a sudden the child is dead. I realized I was watching a foreign film. Can't watch it. I have to be more careful.

Because I'm a mathematician you have to realize that when I'm not sitting here figuring out the average I'm looking at the mode. The mode is the one that's on there most common. If you look at the most common one, 9 months for these offences. The second one is 90 days. Reminds me of that rock and roll song, when you're hot, you're hot. So I'm going to support the Senator from Cumberland, Senator Diamond, the Senator from Aroostook, Senator Clukey, the Senator from Penobscot, Senator Plowman, the Senator from Piscataquis, Senator Davis, and their position. If it fails I will vote for the other one, but I think we need to send a clear message to the criminals in the state of Maine. I think we need to replace the signs on the Maine Turnpike that say 'Maine has a tough drunk driving law' and the images on the TV for advertising to say 'Maine has a tough child sexual assault law.' Let that be the message of the day, the message of the year, the message of the decade, and end this foolishness that we've had for many years. I thank the good Senators and the Representatives for their work and their comments on this bill. 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.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Snowe-Mello.

Senator **SNOWE-MELLO:** Thank you, Madame President, ladies and gentlemen of the Senate. I rise today to join my fellow colleagues to ask you to please vote against the Majority Report. I too served two terms, four years, on the Criminal Justice Committee. While serving on that committee, I just could never get why we couldn't go for minimum or maximum sentences for certain criminals that perform heinous acts. I couldn't buy the arguments that were from wonderful experts that came before our committee. Does the Majority Report go a step better in the right direction? Yes, it does but it does not go far enough, in my opinion. I am asking each and every one of you to please think of the child. Think of the family. Think of them and remember that they need closure. They need to know that this criminal who committed such a heinous crime of passion against their child will be put away for life. They need to know that they are safe, ladies and gentlemen. Thank you.

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

Senator **MILLS:** Thank you, Madame President, men and women of the Senate. I grew up in rural Maine. I've practiced law in rural Maine. I'm not a criminal trial lawyer, although I have handled cases of this kind. I've been witness to the trials and the processing of many of these cases as a participant in the court

proceedings. It wasn't too long ago that you would have often times male members of rural households, I don't know why I say rural because it isn't endemic to rural society but that's the society that I've been witness to for 62 years of my life, brought into court on charges such as these. They would enter a plea of guilty almost without shame on the theory, I think, that, 'Sure I did that, my dad did, my grandfather did, my uncles did.' They would react with some measure of shock as the judge would put them in jail. I'm sorry to say, but that's the society that I think prevailed, perhaps under the radar screen, but that's what we didn't want to talk about 50 years ago. I think it was prevalent 50 years ago, but it just wasn't prosecuted. It's only the time of my law practice, the last 33 years, that I have seen these cases actually prosecuted and convictions obtained. I've seen DAs trained in the art, and believe me folks, it's an art, to train a 6 year old child to testify against his mother's current boyfriend. If you think that's a professional challenge you are right.

It's no wonder that you have perhaps 22 cases on a yellow sheet where in an effort to get a conviction and in an effort to put this guy on record the DA may have made some compromises. I don't know. I can't speak for the history of these 22 cases. I can tell you that those 22 cases were drawn from a list of 1,200 cases of sexual case prosecutions. I don't know how far back this list goes, but this list that we have here is all of the current registrants on Maine's website for sex offenders. I think it goes back about 20 years or so. It's not hard, I suppose, to take 22 cases out of a list of 1,200 and try to make a point with it. It's not statistically valid. It's not appropriate. It's not good argument.

The most important single thing that the justice system can do in these cases is to create a record and make a conviction. The worst thing that can happen in the criminal justice system is for one of these people to go free when he or she is guilty because if they go free, folks, there is no probation, there is no control, and there is no record. There is no registration on the internet. There is not a breath of sanction. That person goes out into society, can move to another state or another town, and is perfectly free, under our law, to go out and do this horrible thing again. Convictions are important, in and of themselves. Lengthy periods of probation are really important. I think that it is highly appropriate for this legislature to speak as the Majority Report does and says the normal sentence for this crime, in isolation from all factors, aggravating or mitigating, ought to be 20 years. We, as a society, have evolved greatly in the last 20 or 30 years on issues of this kind. This is no longer being swept under the rug.

It's a little bit ironic that some of the people who are most forceful in support of mandatory minimum sentences in this instance are also those who often stand up to berate the Department of Health and Human Services in their child protective efforts. I find that ironic. Child Protective Services, in my county, is one of the largest departments of state government. One of the biggest ways in which state government is represented because, quite frankly, this problem is an epidemic in Somerset County and in Franklin County where I was born and grew up. There isn't anybody in this Chamber more sensitive to it than I am, having seen it and seen the evolution of how our criminal justice system is struggling hard on your behalf to deal with this, to make records of these offenders, to put them away, to sanction them, and to put them on probation when the time of sanction expires. These are difficult cases. These are the most difficult cases that court system ever deals with. Anybody who impugns the integrity of the District Attorneys and the judges who

sits on these cases should go walk in their shoes for a day and see what it's like because they are on the front lines of these cases every single day. We had a fellow who retired from the Maine State Police who for 10 or 12 years did nothing but investigate these cases on behalf of the District Attorney in Somerset County. Talk about burn-out. Let's not cast unfair aspersions against the people who are on the front lines fighting this issue on our behalf. It's all very easy to pass pieces of paper out of this institution and then walk away and say, 'There, we told them.' It's very difficult, it's a more sophisticated challenge, frankly more difficult for us to think objectively about how to bring this scourge under control. Frankly, I think that the Majority Report represents a very thoughtful and good step forward. It doesn't preclude that someday we want to go to a mandatory minimum. Frankly, for subsequent offenses it may well be appropriate. Maybe even for first offenses. The point is that this Majority Report represents a thoughtful and reflective step forward. It is so rampant and even though there are 1,200 cases reflected in this printout from the internet, I can tell you right now there are ten times that many that have gone undetected. Yes, we as a legislature, have to act. I'm with you all the way on that. I just want us to act intelligently so that we take good steps forward in bringing this epidemic under control. I think that the Majority Report does that. I want to thank them for their careful work. This is a horribly emotional issue. It's very difficult to sort out truth from fiction. We need to do that. That's our job. I'm going to vote with the majority. Thank you, Madame President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Nutting to Accept the Majority Ought to Pass as Amended by Committee Amendment "C" (H-1058) 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 (#463)

YEAS: Senators: BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, GAGNON, HOBBS, MAYO, MILLS, MITCHELL, NUTTING, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, CLUKEY, COURTNEY, DAMON, DAVIS, DIAMOND, DOW, HASTINGS, MARTIN, NASS, PERRY, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK

16 Senators having voted in the affirmative and 19 Senators having voted in the negative, the motion by Senator **NUTTING** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "C" (H-1058)** Report, in concurrence, **FAILED**.

The Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "D" (H-1059)** Report **ACCEPTED**, in **NON-CONCURRENCE**.

READ ONCE.

Committee Amendment "D" (H-1059) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "D" (H-1059)**, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

All matters thus acted upon were ordered sent down forthwith for 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:

Act

An Act To Safeguard Maine's Highways
H.P. 1347 L.D. 1906
(C "A" H-1041)

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

Senator **DIAMOND:** Thank you, Madame President. I would like to encourage everybody to vote for this enactor. This, as some of you may recognize, is the bill that is commonly called 'Tina's Law'. It was a bill that was worked on this current legislative session. Obviously, it is the bill that is an attempt to address several problems that all came to light as a result of that tragic morning of July 29th when Tina Turcotte was tragically killed on the Maine Turnpike. Many of us started working on this problem as a result of that. Unfortunately it took that tragedy to bring the problems to light. We found many problems within our system, within the motor vehicle system, and elsewhere. The bill that originally started out has changed considerably through the help of the Sheriff's Association, the Secretary of State, the District Attorneys, NCLU, trucking companies, and CLAC. Everybody came together, worked long and hard on this. We had a unanimous committee report. We're very pleased with that. Tina's family is here in the back of the Chamber. We thank everybody for all their input. We talked to several legislators along the way and the committee, as I said, put out a unanimous committee report. We're feeling like this is going to be a huge improvement to our existing system. It doesn't solve everybody's problems, doesn't go as far as some would like, but it certainly is a beginning. We thank everybody for their help. Thank you, Madame President.

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

THE PRESIDENT: The Chair is pleased to recognize in the rear of the Chamber the family of Tina Turcotte; her husband, Scott Turcotte, and Scott's parents, Bev and Les White. Would they please stand and receive the greetings of the Maine Senate.

PAPERS FROM THE HOUSE

Joint Order

Expression of Legislative Sentiment recognizing:

Louise Kiesow, of Augusta, who is retiring as Special Assistant in the House Majority Office. Ms. Kiesow has worked in state government for 26 years. She began her career in the Department of Agriculture in 1979 and came to the Legislature as a Legislative Aide in 1989. She has been a Special Assistant since 2000. Her institutional knowledge and attention to detail have made her an invaluable asset to the House Majority Office for more than 17 years. She is respected and well-liked by all her coworkers and is known for her effective leadership, even under the most trying of circumstances. Louise has filled a niche in the House Majority Office as an ambassador to the County and to the French-speaking delegations and she has been a friend and confidante to many. We acknowledge her dedicated service to the State and send her our best wishes in her future endeavors;

HLS 1898

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

READ.

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

Senator **MITCHELL:** Thank you, Madame President and colleagues in the Senate. I've had the good fortune of knowing Ms. Kiesow for many years. There are not enough adjectives in the dictionary to really portray her kindness, her dedication, and her even-handedness and fairness. I know it will embarrass her, but this is a very special thing that we've shared over the years. I wasn't sure any knew who Patsy Cline was, but my seatmates did so I figured I was safe. At any rate, many years ago I saw a wonderful one-woman production about Patsy Cline. I'm going to clean up this sentence because I can't say some of these things on the Floor. Her confidant was named Louise. All I could think about was our wonderful Louise. Every time she saw her she'd say, 'Blank, Louise' and so every time I see this wonderful Louise I say that. It's sort of a special exchange because she puts up with everything, everybody, and always has a smile and gives support. No matter how tired she is, she's always willing to go the extra mile. It's an extraordinary honor to wish her well in her new endeavor. Thank you very much, Louise, and 'Blank, Louise'.

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

Senator **MARTIN:** Thank you, Madame President and members of the Senate. Louise happens to come from my legislative district and is a native of Fort Kent who moved here to work for us

and subsequently worked for me and others as well. She never said a bad thing to me although I somehow very often at times was pretty pushy, as some of you probably agree. She was always willing to work, always willing to serve, and in particular, was very helpful, I think, to all legislators. For those who don't know it, she's actually is retiring. Here is a young lady who has figured out how to take whatever money she's made and is going to be able to live off that income without working. I wish I could have figured that out. It's going to be great and it just means that she's going to have to spend more time at Cross Lake in Aroostook County. Come winter, even though she doesn't like snow that much, she's going to have to go shovel the camp for her mother. I'm sure her mother's very pleased that she's retiring because now when her mother calls me I'll simply say, 'Don't worry, Louise is on her way.' She can go shovel the camp. Louise, good luck to you and we will certainly miss you in the legislature. Thanks for your work for legislators and the people of Maine.

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

Senator **PERRY:** Thank you, Madame President, ladies and gentlemen of the Senate. I just wanted to add how much we'll miss Louise around here and thank her for eight years of kind of keeping me in line. If you ever wanted the straight scoop on what was going on, Louise is where I would go. Congratulations. I hope you enjoy retirement and we will truly miss you.

PASSED, in concurrence.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the Chamber Louise Kiesow of Augusta. Would she please rise and receive the greetings of the Maine Senate.

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 Resolve

Resolve, To Establish a Blue Ribbon Commission on Solid Waste Management

S.P. 694 L.D. 1777
(S "A" S-623 to C "A" S-545)

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

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:

Act

An Act To Establish a Food Policy for Maine
H.P. 1497 L.D. 2107
(S "B" S-629)

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

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:

Act

An Act To Implement Organizational Improvements to the Legislative Youth Advisory Council
S.P. 856 L.D. 2114

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

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

REPORTS OF COMMITTEES

Senate

Committee of Conference

The Committee of Conference on the disagreeing action of the two branches of the Legislature, on Bill "An Act To Make Revisions to the Laws Governing Pesticide Control"
H.P. 1330 L.D. 1890

Had the same under consideration, and asked leave to report:

That the Senate **Recede** from **Passage to be Engrossed as Amended by Committee Amendment "C" (H-862)**.

That the Senate **Read** and **Adopt** Committee of Conference Amendment "A" (S-642) and **Pass to be Engrossed as Amended by Committee of Conference Amendment "A" (S-642)**, in **Non-Concurrence**.

That the House **Recede** and **Concur**.

On the Part of the Senate:

Senator NUTTING of Androscoggin
Senator BRYANT of Oxford
Senator RAYE of Washington

On the Part of the House:

Representative PIOTTI of Unity
Representative TWOMEY of Biddeford
Representative FLOOD of Winthrop

Comes from the House with the Committee of Conference Report **READ** and **ACCEPTED**.

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

The Senate **RECEDED**.

The Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "C" (H-862) and **INDEFINITELY POSTPONED** same.

Committee Conference Amendment "A" (S-642) **READ** and **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE CONFERENCE AMENDMENT "A" (S-642), in **NON-CONCURRENCE**.

Sent down forthwith for concurrence.

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act Regarding the Sentencing of Persons Convicted of Gross Sexual Assault against Victims under 12 Years of Age"
H.P. 1499 L.D. 2108

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

Comes from the House, with the Bill and accompanying papers **INDEFINITELY POSTPONED**.

On motion by Senator **DIAMOND** of Cumberland, Bill and accompanying papers **INDEFINITELY POSTPONED**, in concurrence.

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

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Recapitalize the Maine Downtown Center"

H.P. 1370 L.D. 1956

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.

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in concurrence.

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Implement the Recommendations of the Joint Standing Committee on Agriculture, Conservation and Forestry Relating to the Seed Potato Board"

H.P. 1472 L.D. 2081

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.

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in concurrence.

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

Senate at Ease.

Senate called to order by the President.

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:

Act

An Act To Amend the Fees for Probate Filings
S.P. 717 L.D. 1800
(C "A" S-617)

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#464)

YEAS: Senators: ANDREWS, BARTLETT, BRENNAN, BROMLEY, DOW, GAGNON, HASTINGS, HOBBS, MILLS, NASS, NUTTING, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SULLIVAN, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, MARTIN, MAYO, MITCHELL, PERRY, SCHNEIDER, SNOWE-MELLO, STRIMLING, WOODCOCK

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, was **PASSED TO BE ENACTED**.

On motion by Senator **GAGNON** of Kennebec, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENACTED**, in concurrence.

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

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Facilitate the Maine Quality Forum"
H.P. 1490 L.D. 2097

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1077)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1077)**.

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

READ ONCE.

Committee Amendment "A" (H-1077) **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:

REPORTS OF COMMITTEES

Senate

Ought to Pass

Senator **ROTUNDO** for the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Ensure the Continued Ability of the Maine Economic Growth Council To Produce the Measures of Growth Report"

S.P. 744 L.D. 1946

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

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

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**.

Ordered sent down forthwith for concurrence.

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

Senator **WESTON** of Waldo was granted unanimous consent to address the Senate off the Record.

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

On motion by Senator **BRENNAN** of Cumberland, **RECESSED** until 2:00 in the afternoon.

After Recess

Senate called to order by the President.

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Create Mandatory Minimum Sentences for Persons Convicted of Certain Sex Offenses against Victims under 12 Years of Age"

H.P. 1224 L.D. 1717
(C "D" H-1059)

In House, April 27, 2006, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "C" (H-1058)**.

In Senate, April 28, 2006, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "D" (H-1059)**, in **NON-CONCURRENCE**.

Comes from the House, that Body **ADHERED**.

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

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 Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#465)

YEAS: Senators: ANDREWS, BARTLETT, BRENNAN, BRYANT, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: CLUKEY, ROSEN, WOODCOCK

ABSENT: Senator: BROMLEY

31 Senators having voted in the affirmative and 3 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **DIAMOND** of Cumberland to **RECEDE** and **CONCUR**, **PREVAILED**.

Ordered sent forthwith to the Engrossing Division.

Off Record Remarks

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act Concerning Multiple-item Bond Issues"

H.P. 99 L.D. 123

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

Signed:

Senators:

ROTUNDO of Androscoggin
MARTIN of Aroostook

Representatives:

BRANNIGAN of Portland
DUDLEY of Portland
CRAVEN of Lewiston
FISCHER of Presque Isle
LERMAN of Augusta

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-1064)**.

Signed:

Senator:

NASS of York

Representatives:

MILLS of Farmington
MILLETT of Waterford
NUTTING of Oakland
BOWEN of Rockport
CURLEY of Scarborough

Comes from the House with 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-1064)**.

Reports **READ**.

Senator **ROTUNDO** of Androscoggin moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

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

Senator **NASS:** Thank you, Madame President, men and women of the Senate. This is an issue that has been before us many

times before. It has to do with concerns that we hear frequently after having votes on bond issues, whether it is in June or November. It has to do with how we formulate these things. This is, I think, definitely a good government proposal. It proposes that we divide the issues in a more reasonable fashion in order to make them more understandable to our constituents. Instead of mixing fish hatcheries and bridges, by the way of example, that we separate them and allow the voters to make separate choices. It would probably, and most likely, in most cases create more items to vote on, but I think it would make more sense to our constituents. I urge a vote against the Ought Not to Pass and let's conduct our referendums and our bond issues in a more understandable fashion. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. I encourage you to support the motion that is before you. The bill that is before you is vague. It talks about severing unrelated items but it's really not clear what that meant and what that means. Generally we group together matters that we, the legislature, consider to be related, whether it's education, transportation, economic development, or etcetera. It wasn't clear how the Secretary of State would determine how many questions should be presented, given how this legislation was drafted. Our sense was that voters have plenty of information available to them to help them to determine what's included in each of the proposed bond questions and that we didn't need to do anything further. Thank you.

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

Senator **MARTIN:** Thank you, Madame President and members of the Senate. Since we're not having bond issues I don't see the purpose of this bill at all.

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 Lincoln, Senator Dow.

Senator **DOW:** Thank you, Madame President. That really wasn't a question that was asked, but I would like to answer it. Maybe we don't fix the roof when the sun is shining, but we ought to because it's going to rain some time.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Rotundo to Accept the Minority Ought Not 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 (#466)

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

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

ABSENT: Senator: BROMLEY

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **ROTUNDO** of Androscoggin to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, PREVAILED.**

Sent down for 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:

Resolve

Resolve, Authorizing the Commissioner of Administrative and Financial Services To Sell or Lease for Veterans' Housing the Interests of the State in Hedin Hall at the Dorothea Dix Psychiatric Center

S.P. 765 L.D. 1984

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

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Deter Environmental Terrorism in the State"
S.P. 706 L.D. 1789
(S "A" S-605 to C "A" S-504)

In Senate, March 23, 2006, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-504).**

In House, April 5, 2006, **FAILED ENACTMENT.**

In Senate, April 26, 2006, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-504) AS AMENDED BY SENATE AMENDMENT "A" (S-605)** thereto, in **NON-CONCURRENCE.**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-504)**, in **NON-CONCURRENCE.**

On motion by Senator **NUTTING** of Androscoggin, the Senate **RECEDED** and **CONCURRED.**

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

COMMUNICATIONS

The Following Communication: S.C. 664

**STATE OF MAINE
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON APPROPRIATIONS AND FINANCIAL
AFFAIRS**

April 28, 2006

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 Appropriations and Financial Affairs has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1911 An Act To Provide Funding for Tribal Economic Development for the Penobscot Indian Nation and Other Federally Recognized Tribes

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

Sincerely,

S/Sen. Margaret Rotundo
Senate Chair

S/Rep. Joseph C. Brannigan
House Chair

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

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator ROTUNDO for the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act Regarding the So-called Katie Beckett Benefits in the MaineCare Program" S.P. 93 L.D. 273

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-647)**.

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

READ ONCE.

Committee Amendment "A" (S-647) **READ** and **ADOPTED**.

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

Ordered sent down forthwith for concurrence.

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

Senate at Ease.

Senate called to order by the President.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (4/03/06) Assigned matter:

Resolve, Directing the Cumberland County Commissioners To Establish a Task Force To Establish New County Commissioner Districts

H.P. 1236 L.D. 1728
(C "A" H-840)

Tabled - April 3, 2006, by Senator **BRENNAN** of Cumberland

Pending - **FURTHER CONSIDERATION**

(In Senate, March 27, 2006, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-840)**, in concurrence.)

(In House, March 31, 2006, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-840) AS AMENDED BY HOUSE AMENDMENT "A" (H-926)** thereto, in **NON-CONCURRENCE**.)

On motion by Senator **SCHNEIDER** of Penobscot, the Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-840)**, in concurrence.

On further motion by same Senator, the Senate **RECEDED** from whereby it **ADOPTED COMMITTEE AMENDMENT "A" (H-840)**, in concurrence.

House Amendment "A" (H-926) to Committee Amendment "A" (H-840) **READ**.

On motion by Senator **SCHNEIDER** of Penobscot, House Amendment "A" (H-926) to Committee Amendment "A" (H-840) **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

On further motion by same Senator, Senate Amendment "A" (S-639) to Committee Amendment "A" (H-840) **READ** and **ADOPTED**.

Committee Amendment "A" (H-840) as Amended by Senate Amendment "A" (S-639) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-840) AS AMENDED BY SENATE AMENDMENT "A" (S-639) thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

On motion by Senator **DAVIS** of Piscataquis, **RECESSED** until 6:30 in the evening.

After Recess

Senate called to order by the President.

Senator **ANDREWS** of York requested and received leave of the Senate for all members and staff be allowed to remove their jackets for the remainder of this Session.

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Replace Municipal Revenues Subject to Business Equipment Property Tax Exemption"

H.P. 1452 L.D. 2056

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1078)**.

Signed:

Senators:

PERRY of Penobscot
STRIMLING of Cumberland
COURTNEY of York

Representatives:

HANLEY of Paris
CLARK of Millinocket
McCORMICK of West Gardiner
WOODBURY of Yarmouth
CLOUGH of Scarborough
BIERMAN of Sorrento
WATSON of Bath
SEAVEY of Kennebunkport
PINEAU of Jay

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

Signed:

Representative:

HUTTON of Bowdoinham

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-1078)**.

Reports **READ**.

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

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

Senator **PERRY:** Thank you, Madame President. I've been waiting for this for a while. I am so excited to talk about this bill and I'm so pleased that we have a 12 - 1 report on what I think could be the most important tax change that we've made in my six years on the committee and during my ten years in the

legislature. As well all know, we're familiar with the BETR program. It was a tool that was designed in 1995 to reimburse businesses on their production equipment to help spur investment here in the state of Maine. It worked. It worked well. It worked so well that the fiscal note grew to a size that was scary. That was the proof to me that it worked. You lower the barriers and people invest. Over time the BETR program has had its critics and proposed changes. Over time, I think, the fact that it was an appropriation that a target in budget times has put some of the ability to draw investment here to the state at risk because what business want is stability. This was a tough task to come to an agreement on this because the state was starting at kind of a disadvantage because we were already paying the tab. We're paying all of the tab and we had taken two of the three interested parties out of the equation. We had taken business out because we were simply paying the entire tax bill and we were taking the towns out because with us paying the tax bill they didn't even have to consider a TIF in most cases. Neither side really wanted to give up what they already had. That's the starting place. It's taken two years now, since we got started, to get this done. I honestly think that passage of this bill hangs a banner nationwide for people to say Maine is open for business and you can invest in production equipment here in the state tax free. We're removing that barrier. If you are an existing business in the state of Maine, upgrade and buy new equipment. Stay here for the long haul. I am so pleased that we were able to come to an agreement that both sides, the business community, municipalities, and the committee, could really come together on. I think it's a great service to the state of Maine and I look forward to everyone's support on this. Thank you.

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

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. It really is an honor for me to have been involved in this bill. I know a lot of you probably are a little apprehensive because you see the good Senator from Cumberland, Senator Strimling, and I on the same side. It really has been an honor working with the Senator from Penobscot, Senator Perry, and the Senator from Cumberland, Senator Strimling, and working through issues that I believe are going to make Maine a much better place to do business. I think that we've had excellent support from leadership and I think that this sends a message to the people of Maine and the people across the country, because so many of decisions in business are made outside of this state, that Maine is open for business. We didn't all get everything that we wanted. I'm sure that the side didn't and I didn't. I was somewhat disappointed that we weren't able to include retail into this. I think there are a lot of small Mom and Pop businesses that perhaps could feel left out of this process. I would just like to go on the record and say to them that this is a step forward. You don't take one giant leap. You have to take small steps. This is a small step and I believe that the other side of the aisle is very committed as well to protecting the small Mom and Pops and I hope that in the future we're able to do that. Thank you, Madame President.

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

Senator **STRIMLING**: Thank you, Madame President. It has been, to quote some music from your generation, 'What a long strange trip it's been.' That's music my brother listened to, too. It has been quite a ride to get to this place and I think it has been a testament to people being able to come together. I would say that I appreciate that people are saying that Maine is open for business. I think Maine has been open for business and I don't think that we should pretend that Maine hasn't. I think there have been strong things in our economy. Businesses have been able to move here and they have received the reimbursement from the state. I think what's important about this, and the battle that we fought long and hard in the committee to make sure occurred, was that municipalities were left whole in this process. That was the dialog. I would say both sides agreed. We both wanted to keep municipalities whole and both sides believed that we wanted to make sure that we didn't shift the burden from businesses onto property tax payers. That was the hard work that we pounded out and pounded out. I would say that in the end we actually really did accomplish that. I'd ask any of you to talk to the Maine Municipal Association and ask them to run the numbers from your town because we've been beginning to get them. You will see that, for the most part, municipalities are kept whole and if not whole then very close. In some years there are some that may make out ahead. Some, in some years down the road, may not. The most important part, the first five or six years, I would say almost every community in the state is going to be kept whole because of the hard work of putting together this proposal.

The increased revenue into Rev 2, which really helps our service centers, leaving retail taxable at the local level and keeping a BETR program in place for them, that really helps most of our small communities because most of them have retail. Setting up a reimbursement model to make sure that it takes care of the towns that are being hurt the worst, the mill towns. Those are the ones that are really going to feel the pain if we hadn't stepped up to find a solution. If 80% or 90% of their tax base is personal property on business equipment, that's too much to lose. We set up a reimbursement model that makes sure that they get taken care of 100% in the first year and from there, probably for it's entirety, they are going to be kept whole to 80% to 90% of what they might have lost. Because retail is still taxable they will probably make up that other piece and because of the Rev 2 it adds another piece. Piece by piece, we put this together.

I will also say, and it's probably no surprise, the reason that I was most at the table, because I'll tell you I'm not the big believer that getting rid of this tax is all of a sudden going to make this state a Mecca. I think we are a great place to do business right now. That's why businesses are here. When you talk to them they say they love being here. I got to the table because I realized there are a lot of people who really want to get rid of this and I, of course, for 3-1/2 years have done everything I possibly can to get rid of the BETR program because I have found it to be a detriment to our state funds, taking away money from what we really need it. Most importantly, I have wanted to get rid of the double dip. Ladies and gentlemen, today when you push your button, when you push that green button, and I hope you do, the double dip will be gone. Any new investments made in this state that go into the BETR program on the retail cannot get a double dip. The BETR expired property, which remains taxable in communities and was very important to mill towns, cannot get the double dip and because we eliminate the tax across the board in so many municipalities, they cannot get it as well. The net result of that is about a \$10 million savings annually to our biennium. A

\$10 million savings to our budget every two years that we can then invest where we choose, whether it be property tax relief or whether it be some other business relief, our schools, or to pay our hospitals. Whatever it is, we're going to have that extra \$10 million and I think that's good for the people of the state of Maine. I do stand up, I do actually feel proud that we're about to take this step. I encourage all my colleagues to support the motion made before us of Ought to Pass. Thank you very much.

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

Senator **MAYO**: Thank you, Madame President, ladies and gentlemen of the Senate. I find myself, for the second time this week and I suspect not the last time while this Body is in session, rising to say while I will push a green button on this particular issue, I do it quite reluctantly. The reason for that is that the community in which I live, and the second largest community in my Senate district, is not going to do particularly well with this bill. It will out of the chute, but after about four years that community is going to be in excess of \$1 million short because of the transfer from industry to residential tax payers. That bothers me because it isn't the only community in my district that is feeling that. I had an e-mail and a letter today from the Town of Richmond. The Selectmen unanimously voted in the Town of Richmond to oppose this bill even with its amendment. I am concerned for two things; I do see this as an improvement because I have not been a strong supporter of BETR, but I must admit that I see it as a shift from business to the personal residents and individual residents tax. The second thing that bothers me, having been here now nearly 12 years, is that we tend to pass legislation such as this and then down the road when things get slightly tight or we want to head in another direction, we take the funding and go in a different direction with it. There is nothing in this particular piece of legislation that I have been able to find that says that this cannot happen. While we start off with all of the best intentions, I think it is far better than any bill doing away with BETR that I have seen, I am concerned that two or four years down the road the Appropriations Committee and this Body and the other Body will decide that money is needed for something else and we will cut back on what we are doing the municipalities. That being said, when I started I indicated that I will push the green button. I will do so reluctantly because it's better than anything else before us, but it certainly is not a panacea and I would hope that a year from now that the Taxation Committee would continue, when it comes back in the 123rd, to look at this issue and the residential property tax issue because I really think we're going to hear some people saying, 'Why did you increase my property tax?' in the next year. Thank you.

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

Senator **ROSEN**: Thank you, Madame President, men and women of the Senate. First of all I want to be on the record to congratulate the members of the Taxation Committee for the work that they put into this bill and the product that they brought forward. I know this has been difficult. It has been demanding. I congratulate you for staying at the table.

I just want to speak for a moment about the retail component in the bill. It is true, as the previous speakers have mentioned, that retail, in particular small retail, will continue to be taxed. It will

now be the last remaining component of the business sector that will continue to be taxed on the personal property end. It will be allowed to participate in the BETR program on a go-forward basis. There is an exception in the bill. If you are a Maine-based retailer with a significant portion of your business out-of-state it does not apply to you. There are not many of those in Maine. The rest of them, particularly the small ones, will remain alone on a go-forward basis as the last group that is taxed. I appreciate very much the words of the Senator from York, Senator Courtney, indicating the intent, that this is a process and that the hope is that in the future this sector will not be left abandoned, left to fend for themselves, but that it is the intent of the legislature to continue to resolve this issue.

I'm concerned about it because of the tone and the conversation that I have heard during the last two years connected to a variety of bills and proposals that talk about and refer to retail jobs and the retail sector as perhaps being less desirable, that the benefit of the jobs is less desirable than other professions. When we hit a rough patch in our economy it seems to be that we are reminded by our leaders that it is the consumer, the retail sector, that 80% of the economy and that is the engine that keeps us moving forward. Those jobs are critical. These are the men and women that make sure that there are products on the shelf when you want it. They are there when there are services available in the evening, on holidays, or on the weekends for you and your communities. It is a vital and should be a respected sector of the state's economy. I appreciate the words of commitment and I hope the next legislature remembers them. Thank you.

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

Senator **STRIMLING:** Thank you, Madame President. I just wanted to address a couple of points that were brought up. I do appreciate the comments from the Senator from Sagadahoc, Senator Mayo, although I need to say as strongly as I can, and insist in this, that I am more than positive that there is no municipality that is going to be down \$1 million in revenue even if the state does not keep its commitment about the Constitutional piece within four or five years. I would not be standing up today to support this. The work that we did was literally go municipality by municipality, making sure that we solved those problems. I would encourage them to bring those numbers forward for us to look at and if that is the case I think we will revisit it. I can assure you, in what we have done, there is no municipality that is going to be down that much. I looked at numbers for the town of Jay, which is unbelievably reliant, and their numbers, talking about maybe five years out, are \$100,000 and that's before the Rev 2 goes into assist them. We are not even close to being in a place like that.

On the issue of the retail, I understand the conflict around that. Certainly there were some of us who have felt like retail should never have been in the BETR program in the first place. The BETR program was designed to bring businesses in around manufacturing and to assist businesses who could move. That, indeed, is why the exemption is there. If there is a retail business that does more than 70% of their business out-of-state it's easy for them to move. That makes sense to put that exemption in here. There are other programs to help retail businesses. There are other programs to help small businesses, TIFs and whatnots, that we have in place. This program was not designed for that.

However, that said, although I would rather have retail not in here at all, not being reimbursed by the state at all, we realized that they have been in already. It's not particularly fair to pull the carpet out from underneath and get rid of a program that they had been in for this long and to just change the rules. That's why they are still in and getting the reimbursement that they are getting. It was the piece that ultimately allowed most municipalities to stay whole in this process. Without that taxable base on retail they were not going to come out of this even, because in most municipalities that's what they have. We had to keep that taxable and that was a good thing to do. I don't have a doubt about it.

Again, just the two important points. I would not be standing up and supporting this today if there were municipalities that were going to be losing that kind of money. It is just not the case. Municipalities will be kept whole and the burden will not be transferred onto to property tax payers from businesses. Those were the two values we walked in and said we had to make sure we met. I believe that we have met those two as close as you could possibly meet them.

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

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

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. Certainly you've had a flavor of some of the differences of opinions that we negotiated through today. I just want to add one thing that I think, hopefully, will alleviate the good Senator from Sagadahoc, Senator Mayo. The new investment going forward and the reimbursement, because of the new investment, as new investment is put into place, if you have a piece of machinery that replaces a depreciated piece of machinery, it's going to go in at 100% whereas that depreciated piece that is on the books is getting 30%. The 100% is of the current price as opposed to the depreciated 15 year old price. When the state reimburses at the minimum, 50% after this is fully implemented, there is going to be a net increase in dollars for the community. It's my intention, and I believed this all along even before we made the adjustments to bring along some of our good friends, there will be more dollars for the communities to work with. That's why I'm very excited about this program. I'm very excited about the new investments that I expect to come into this state.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Perry 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 (#467)

YEAS: Senators: ANDREWS, BARTLETT, BRENNAN, BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: None

ABSENT: Senator: BROMLEY

34 Senators having voted in the affirmative and No Senator having voted in the negative, with 1 Senator being absent, the motion by Senator **PERRY** of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-1078) **READ** and **ADOPTED**, in concurrence.

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

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

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

SENATE REPORTS - from the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Resolve, To Lower the Cost of State Government by Approximately \$1,000,000 Annually

S.P. 457 L.D. 1330

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-636)** (5 members)

In Senate, April 28, 2006, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Comes from the House, the Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-636)**, in **NON-CONCURRENCE**.

Senator **NUTTING** of Androscoggin moved the Senate **RECEDE** and **CONCUR**.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING:** Thank you, Madame President, ladies and gentlemen of the Senate. We debated this bill a little bit yesterday. I'm very pleased that the other Body, with a tri-partisan support, did support this particular L.D. Remember, I'm focusing on newly created political appointee positions. It was very disheartening for me to hear from two members of the Appropriations Committee who were told this bill would be a \$1 million cut in the Health and Human Services Department. That's not accurate at all. Remember in the last page of the handout that I had distributed to everybody there was the \$800,000 increase in the Governor's Special Assistant line alone. This bill, because it was held-over, was submitted 14 months ago. It had a very quick work session. I have a tremendous amount of respect for Becky Wyke, a tremendous amount of respect. I know that she philosophically does not agree with this bill. I know this is a very difficult issue. After that very short work session she told me, 'Senator Nutting, I can get to five positions but after that it's going to be very difficult.' Ladies and gentlemen of the Senate, if in that short period of time already half of the positions needed to fund this bill can be identified then I maintain that in another three or four month period the other positions can be identified. I firmly believe that. I'm not saying it's easy, but we've cut 2,400 front-line workers in the last 10 years and yet administration after administration have added new positions. I'm not talking about converted positions. They have added new positions at the top of state government. I believe that this is the right thing to do. I don't believe we can afford to continue as we've been going. I ask for your favorable support of the pending Recede and Concur motion. Thank you.

On motion by Senator **ROTUNDO** of Androscoggin, 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 Nass.

Senator **NASS:** Thank you, Madame President, ladies and gentlemen of the Senate. As we did yesterday, I just want to emphasize a couple of points on this. I see this as a big opportunity to recognize growth and change that growth in a particular area in the Chief Executive's Office. It clear from the last page of the hand-out that we were given last night that there has been substantial growth in this area. I think this is an opportunity to slow that down, move it back, and be able to move that money some place else. Incidentally, this bill doesn't say where that money goes. It doesn't take it from any place except what we're talking about tonight. It doesn't allocate it any place. It just recognizes the need for higher priorities; I guess that's the best way to explain it. I do want to report tonight that we, through really diligent work today, were able to find the Governor's Nuclear Advisor. He's over in the Public Advocate's Office. My point here is that this is just the tip of the iceberg. There are people throughout this government that probably should be in this account. That particular person is funded by other special

revenue. Other special revenue still comes mostly from our citizens. That's not even on the table at this point. With 14,000 people working for this state government you can imagine how disbursed it is. This is just a tiny corner, tiny opportunity to make an adjustment. I would urge that we vote in favor of the motion and make this change because it is necessary. We need the resources elsewhere.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. Again I want to remind you, as I did yesterday, that all of you sitting on legislative committees of oversight had the opportunity in Part 1 and Part 2 of the Supplemental Budget last year to identify for the Appropriations Committee people in the different departments that you oversee that were not necessary to those departments. I would suggest to you that if you weren't able to identify them at that time in any of those budgets then probably they are necessary and needed within those departments. I would ask you to think about that before you support this motion. Be careful of what you ask for. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING:** Thank you, Madame President. I'll be brief. To me, I want to emphasize that this particular bill, on an ongoing basis from now on, could mean \$1 million a year for our highways and bridges. In the future, that \$1 million could attract a tremendous amount of federal match to do even more for our roads and bridges than we are doing now. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Nutting to Recede and Concur. 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 (#468)

YEAS: Senators: ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, NUTTING, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, SULLIVAN, TURNER, WESTON, WOODCOCK

NAYS: Senators: BARTLETT, BRENNAN, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senator: BROMLEY

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **NUTTING** of Androscoggin to **RECEDE** and **CONCUR, PREVAILED.**

Non-Concurrent Matter

Bill "An Act To Enhance the Protection of Maine Families from Terrorism and Natural Disasters " (EMERGENCY)
S.P. 789 L.D. 2044
(H "C" H-1035 to
C "A" S-575)

In Senate, April 27, 2006, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-575) AS AMENDED BY HOUSE AMENDMENT "C" (H-1035)** thereto, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-575) AS AMENDED BY HOUSE AMENDMENTS "C" (H-1035) AND "D" (H-1066)** thereto, in **NON-CONCURRENCE.**

On motion by Senator **STRIMLING** of Cumberland, the Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-575) AS AMENDED BY HOUSE AMENDMENT "C" (H-1035)** thereto, in concurrence.

On further motion by same Senator, the Senate **RECEDED** from whereby it **ADOPTED** Committee Amendment "A" (S-575) as Amended by House Amendment "C" (H-1035) thereto, in concurrence.

On further motion by same Senator, the Senate **RECEDED** from whereby it **ADOPTED** House Amendment "C" (H-1035) to Committee Amendment "A" (S-575) and **INDEFINITELY POSTPONED** same, in **NON-CONCURRENCE.**

House Amendment "D" (H-1066) to Committee Amendment "A" (S-575) **READ** and **ADOPTED**, in concurrence.

On motion by Senator **STRIMLING** of Cumberland, Senate Amendment "B" (S-651) to Committee Amendment "A" (S-575) **READ.**

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

Senator **STRIMLING:** Thank you, Madame President. Just to make folks aware, there was a technical problem with one of the amendments that was put on in the other Body regarding the disaster relief fund and how that works. This basically clarifies it and actually puts an additional limitation to make sure that this happens appropriately at the time of a crisis in the state. We'll talk more about this bill when it gets to its final enactment. Thank you very much.

On further motion by same Senator, Senate Amendment "B" (S-651) to Committee Amendment "A" (S-575) **ADOPTED.**

Committee Amendment "A" (S-575) as Amended by House Amendment "D" (H-1066) and Senate Amendment "B" (S-651) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-575) AS AMENDED BY HOUSE AMENDMENT "D" (H-1066) AND SENATE AMENDMENT "B" (S-651) thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for 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:

Act

An Act To Update Teachers' Minimum Salaries
S.P. 480 L.D. 1381
(S "A" S-620 to C "A" S-577)

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

Senator **WESTON:** Thank you, Madame President and men and women of the Senate. I actually intended to stand and ask a question, but I've already answered that question. I will leave the Body with this thought; we have not yet fulfilled that long awaited promise of 55% funding that was the intent of this legislature for many years. That promise is still unfulfilled. If you vote in favor of this motion tonight, that promise is still unfulfilled. If you will look at the amendment you will read, 'As amended this bill provides that it is the intention of this legislature to fund this in 2007 - 2008.' That is an echo of an unfulfilled promise. This legislature cannot bind the 123rd. We are creating an echo of an unfulfilled promise. I really do not want to be a part of that. Thank you.

Senator **RAYE** of Washington posed a parliamentary inquiry as to whether this Bill required a Mandate Preamble.

The Chair informed the Members that the bill, as engrossed, was determined by the Office of Fiscal and Policy Analysis to not require a Mandate Preamble.

Senate at Ease.

Senate called to order by the President.

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

Senator **RAYE:** Thank you, Madame President. I'd like to address a question through the Chair to who ever would be able to answer it.

THE PRESIDENT: The Senator may pose his question.

Senator **RAYE:** Thank you, Madame President. If the bill before is not a mandate, is it fair to characterize it as really a suggestion?

THE PRESIDENT: The Senator from Washington, Senator Raye poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Kennebec, Senator Mitchell.

Senator **MITCHELL:** Thank you, Madame President and colleagues of the Senate. I suppose one can characterize it however they wish. I would certainly say it is much more than a suggestion. It is the law. We're passing a law that says this is the minimum salary base for teachers. If the question then carries over into payment, there is money in the budget for this year's payment. There is expression of legislative intent that this money will carry forward just for this specific purpose for the next year. Obviously we cannot bind a future legislature and there will be others here next year to make sure that this happens, I hope. That's true of everything we're passing in this Body, whether it is EPS or your Boat Building School. With all of those things nothing is guaranteed into the next session. There is language in the bill, it is the intent that the money just for this narrow piece, whatever it requires to get a teacher from whatever the base is now to \$27,000 is paid for and the distance to \$30,000 is the legislative intent.

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.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#469)

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

NAYS: Senators: ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK

ABSENT: Senator: BROMLEY

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, was **PASSED TO BE ENACTED** and having been signed by the President was presented by the Secretary to the Governor for his approval.

Ordered sent down forthwith to the Governor's Office.

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **TAXATION** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Limit the Rate of Change in Taxable Value of Homestead Land
H.P. 7 L.D. 2

Reported that the same **Ought to Pass as Amended by Committee Amendment "C" (H-1014)**.

Signed:

Senators:

PERRY of Penobscot
STRIMLING of Cumberland

Representatives:

CLARK of Millinocket
WOODBURY of Yarmouth
HUTTON of Bowdoinham
WATSON of Bath

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "D" (H-1015)**.

Signed:

Senator:

COURTNEY of York

Representatives:

HANLEY of Paris
McCORMICK of West Gardiner
CLOUGH of Scarborough
SEAVEY of Kennebunkport

Comes from the House with Reports **READ** and the RESOLUTION and accompanying papers **INDEFINITELY POSTPONED**.

Reports **READ**.

Senator **STRIMLING** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "C" (H-1014)** Report, in **NON-CONCURRENCE**.

On motion by Senator **COURTNEY** of York, 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 Cumberland, Senator Strimling.

Senator **STRIMLING:** Thank you, Madame President. This amendment, I think, is actually a relatively important exercise that perhaps we could go through. This amendment was offered by a person in the other Body who was on our committee and it is an amendment to the original L.D. 2. What it does is to say that nobody in the state of Maine should pay more than 10% of their income on property taxes. It's not to say that it should be 10%, but it is to say that we believe that nobody in Maine should be paying more than 10%. It's a very simple Constitutional amendment for us to put out to the voters instead of doing all this shifting, and instead of doing all these things where somebody can put it in a program or not put it in a program. This basically takes the Circuit Breaker Program, which all support, and says if your property taxes amount to more than 10% of your income then you will not have to pay and the state will reimburse. The municipality doesn't lose and it's high enough that the municipalities are not going to jack the taxes up to hit that level because if they did that they would have to meet all of that first part up to 10%. Most people's property taxes are below 2% or 3%. That's where they are. In some places, in some of our coastal communities especially, we see them going up and up and up. It hurts the folks who are on fixed incomes. This is for the legislature to make a stand and say to ask the voters what they think. Do you think that anybody in the State of Maine should have a property tax bill that is more than 10% of their income? I think everybody here would say no. What we are asking today is to send this out and to hear from the voters because I assume everybody in this Body agrees that nobody should have to pay more than 10% of their income on their property taxes. Madame President, I request that folks support the majority Ought to Pass as Amended report. Thank you very much.

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

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. This one really caught me by surprise. I had such high hopes for L.D. 2, especially after it was part of the tax reform bill when we all came back into this session. There was broad-based support for doing something to control valuation and protect homeowners. In my perspective, it didn't go quite far enough because it only went to the land. I'll try to be very careful not to get too sidetracked from this. The average amount of money is about 13%, I believe, that people pay in their total taxes in Maine. You have an opportunity everyday here to make sure that we don't pay 10% of our income in property taxes. The municipalities have that opportunity to present it to the people through people getting involved, going to town meetings, and saying they aren't going to spend at that level.

The Minority Report, which I have promised not to talk about but hopefully I'll get an opportunity to allude to it. It's such an important bill because this is something that the Chief Executive, in his State of the State speech, said that he was going to make a commitment to the people of Maine to do something about rising property valuations. That is something that, as most of you know, is very important to me because I see the fabric of our state changing because people can no longer afford to stay in their

homes. They need that protection. Just because somebody decides to build a million dollar house next to them, they don't have to move. That's why we compromised a lot. Actually the Minority Report is the exact bill that was brought down by the Chief Executive and his staff. I would encourage you all to take a broad step and support the Chief Executive and defeat this motion and go on to pass the Minority Report. Thank you, Madame President, and thank you for your patience with me.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Strimling to Accept the Majority Ought to Pass Report as Amended by Committee Amendment "C" (H-1014). 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 (#470)

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

NAYS: Senators: ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK

ABSENT: Senator: BROMLEY

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **STRIMLING** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "C" (H-1014)** Report, in **NON-CONCURRENCE**, **PREVAILED**.

READ ONCE.

Committee Amendment "C" (H-1014) **READ** and **ADOPTED**.

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

Ordered sent down forthwith for concurrence.

ORDERS OF THE DAY

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

Emergency Measure

An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2006-07
H.P. 1437 L.D. 2039
(S "A" S-630 to C "A" H-952)

Tabled - April 28, 2006, by Senator **DAVIS** of Piscataquis

Pending - **ENACTMENT**, in concurrence

(In House, April 27, 2006, **PASSED TO BE ENACTED**.)

(In Senate, April 28, 2006, **FAILED PASSAGE TO BE ENACTED**, in **NON-CONCURRENCE**. On motion by Senator **DAVIS** of Piscataquis, **RECONSIDERED**.)

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with 7 Senators having voted in the negative, and 27 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.

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Enact the Tax Fairness Act"

H.P. 359 L.D. 484

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-812)**.

Signed:

Senators:

PERRY of Penobscot
STRIMLING of Cumberland

Representatives:

CLARK of Millinocket
WOODBURY of Yarmouth
HUTTON of Bowdoinham
WATSON of Bath

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

Signed:

Senator:

COURTNEY of York

Representatives:

HANLEY of Paris
McCORMICK of West Gardiner
CLOUGH of Scarborough
SEAVEY of Kennebunkport

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

Reports **READ**.

Senator **PERRY** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**.

On motion by Senator **COURTNEY** of York, 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 Cumberland, Senator Strimling.

Senator **STRIMLING:** Thank you, Madame President. What this bill does, very simply, is sends out to referendum a non-binding advisory question. We often hear in this Body that we want tax reform. We talk about it, I would say, on a daily basis. Certainly in the Taxation Committee we talk about it on an hourly basis. We all talk about wanting tax reform, but the problem is that when we get down to the actual piece of reform it becomes too politically difficult because in order to do true reform and truly rebalance our tax code you would have to raise some and lower some others. We decided that maybe it would be a good idea to just take a small step and ask the people of Maine if they want tax reform. As them if they want simple reform that is revenue neutral, that looks at broadening our sales tax, and providing income tax and property tax relief. That's where most of us identify that we have the problems. We said, 'Look, let's just ask the voters. If they say no, great. If they say yes, then we put our heads together and then we try to figure out how to answer the question.' It doesn't give any detail. It doesn't say it's got to be this or that or you raise this tax or lower that tax. All it says is, do you want us to look at broadening the sales tax in order to provide income tax and property tax relief? I think most people in this state know that's where the balance is off. About 40% to 45% of the revenue in the state is collected from property taxes and only 25% is collected from sales taxes. We know that is way out of whack. Most economists say we should probably try to fix that. What we're asking now is if they want us to. If they don't, that's fine. We don't need to keep having this conversation. I don't need to be continually putting up bills to get five or six votes on some kind of property tax reform. Let's ask the people. What do they want? If they say yes, please go back and try to figure out how to rebalance our code, then we'll do it. If they say no, no problem. No harm, no foul. Thank you, Madame President. I would request people support the majority Ought to Pass as Amended report.

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

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. I guess tonight is referendum night. The

last bill we decided to ask the people if they wanted to be taxed more than 10% on their property and protect that through the Constitution. Now we want to ask them if they want to expand the tax to hopefully reduce the tax. I guess I'm wondering if this legislature is a lot more responsible than MMA, who put out a question to fund 55% of education but make the money grow on trees. I would ask you to oppose the motion and perhaps let's look at this a little differently. I think that there are good intentions on both sides for tax reform. Unfortunately, some people want to solve our problems by reducing spending, other think that it's better to increase spending or broaden the taxes. It's unfortunate that we haven't been able to get to a point where we could work together, but we're going to continue and I think that maybe one day we'll come up with a solution that we can start to take care of the growth in government and we can accomplish some of things so that we can reduce taxes and provide for some of the things that other people want to do. Maybe we can find a way that we can do it over time, on a gradual basis, and maybe at one point in time we can accomplish what we're trying to do. I hope that happens some day because I think the people of Maine need it and deserve it. They don't deserve to be burdened with the taxes that they pay today. Thank you, Madame President.

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

Senator **COWGER:** Thank you, Madame President and colleagues in the Senate. I hope we can support the pending motion. I'd just like to take a moment to say that in my ten years here in this legislature, proud to have made it to a decade, I have never voted on a roll call to add a sales tax exemption to our tax code. I think we have continued to do it. We continued under the hammer this evening to add a sales tax exemption for air ambulance services. We've added a lot of what seem to be worthwhile exemptions throughout the years. What we do is continue to narrow and narrow and narrow our tax base. I think it's a wonderful question to put out to the voters of the state of Maine. I think we're going to find out and become enlightened as to what we can really tackle in terms of true tax reform. I hope you will support the motion. 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. I'll be brief. We just had a fantastic vote to eliminate what was the biggest impediment to investment in the state of Maine, that is the personal property tax on business equipment. That is a giant leap forward in attracting business to the state of Maine. We have one remaining impediment and that's a very high top marginal rate on our income tax and we have one of the most narrow sales tax bases in the country. This is vacationland. All summer long our population doubles and these tourists come into the state and enjoy tax exemptions on our sales tax that they don't enjoy in their own state. For six years I've been working to rebalance this system, to shift more onto the sales tax and less on the income taxes. I think that makes good sense. No everyone in this building has agreed with me. I want clarity once and for all. I think many people think it does make sense, but there is always that shadow of a doubt that maybe that isn't what the public wants and they are a little too nervous to move forward because we are broadening into some

new areas. I think the trade-off makes sense. I would really appreciate some clarity from the folks in Maine, if they think that is the way we should go. If the answer is no, perhaps next year I'll ask Madame President to make me Chair of Appropriations or some other committee. I would ask for your support on this issue. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Perry 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 (#471)

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

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

ABSENT: Senator: BROMLEY

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **PERRY** of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE, PREVAILED.**

READ ONCE.

Committee Amendment "A" (H-812) **READ** and **ADOPTED.**

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

Ordered sent down forthwith for 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:

Acts

An Act To Require the Commission on Governmental Ethics and Election Practices To Produce a Register of All Registered Lobbyists

H.P. 1262 L.D. 1822
(S "D" S-622 to C "A" H-822)

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

An Act To Strengthen Maine's Craft Brewers

S.P. 792 L.D. 2048
(C "A" S-588)

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

An Act To Clarify the Sales Tax Exemption for Air Ambulance Services

S.P. 816 L.D. 2085
(C "A" S-589)

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

Resolve

Resolve, Directing the Department of Public Safety To Study the Issues of Alcohol Regulation and To Review the Impact of Out-of-state Sales and Direct Distribution to Maine Consumers

H.P. 415 L.D. 560
(H "C" H-1055 to
C "B" H-975)

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

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Appropriate Matching Funds for the Construction of a Convention Center in Oxford Hills" (EMERGENCY)

H.P. 405 L.D. 550

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1079)**.

Signed:

Senators:

ROTUNDO of Androscoggin
MARTIN of Aroostook
NASS of York

Representatives:

BRANNIGAN of Portland
DUDLEY of Portland
CRAVEN of Lewiston
FISCHER of Presque Isle
MILLS of Farmington
MILLETT of Waterford
NUTTING of Oakland
BOWEN of Rockport
CURLEY of Scarborough

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

Signed:

Representative:

LERMAN of Augusta

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-1079)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-1079) **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 down forthwith for 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:

Acts

An Act To Make Minor Technical Changes to Maine's Spending Growth Benchmarks

H.P. 1350 L.D. 1909
(C "A" H-1063)

An Act To Facilitate the Maine Quality Forum

H.P. 1490 L.D. 2097
(C "A" H-1077)

An Act To Implement the Recommendations of the Freedom of Access Advisory Committee

H.P. 1503 L.D. 2111

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

An Act To Save the Marine Technology Center and Strengthen Maine's Boatbuilding Workforce

S.P. 746 L.D. 1948
(C "A" S-637)

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

An Act To Recapitalize the Maine Downtown Center

H.P. 1370 L.D. 1956

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

An Act To Implement the Recommendations of the Joint Standing Committee on Agriculture, Conservation and Forestry Relating to the Seed Potato Board

H.P. 1472 L.D. 2081

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

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

HOUSE REPORTS - from the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act Concerning Multiple-item Bond Issues"

H.P. 99 L.D. 123

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-1064)** (6 members)

In House, April 28, 2006, the Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1064)**.

In Senate, April 28, 2006, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

Comes from the House, that Body **ADHERED**.

Senator **ROTUNDO** of Androscoggin moved the Senate **ADHERE**.

Senator **NASS** of York moved the Senate **RECEDE** and **CONCUR**.

On motion by Senator **BRENNAN** of Cumberland, 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 Nass.

Senator **NASS:** Thank you, Madame President, men and women of the Senate. This is the item concerning multiple bond item issues and our need to present these choices to our constituents in a more clear manner. It's something we've talked about a lot here. It is something that I've heard, at least from my constituents, grumbling about being forced into accepting something when they wanted part of an offer but not the whole thing. The down side of this, of course, is that there would be more items, most likely, on most ballots. I think the need for clarity is important and one that we should grab the golden ring here at this point and make this happen for people. This is about clarity. This is about not mixing up issues, trying to make it easier for people to decide whether they did want to support a bond issue or not. We need to do that, I think, for the people. Thank you, Madame President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Nass to Recede and Concur. 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 (#472)

YEAS: Senators: ANDREWS, CLUKEY, COURTNEY, DAMON, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK

NAYS: Senators: BARTLETT, BRENNAN, BRYANT, COWGER, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, RAYE, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senator: BROMLEY

16 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **NASS** of York to **RECEDE** and **CONCUR**, **FAILED**.

On motion by Senator **ROTUNDO** of Androscoggin, the Senate **ADHERED**.

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.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (4/27/06) Assigned matter:

HOUSE REPORTS - from the Committee on **TRANSPORTATION** on Bill "An Act To Make Additional Allocations from the Highway Fund and Other Funds for the Expenditures of State Government and To Change Certain Provisions of State Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2005 and June 30, 2006" (EMERGENCY)

H.P. 1382 L.D. 1974

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-1036)** (10 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-1037)** (3 members)

Tabled - April 27, 2006, by Senator **GAGNON** of Kennebec

Pending - **ACCEPTANCE** of the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-1037)** Report, in concurrence

(In House, April 27, 2006, the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-1037)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-1037) AS AMENDED BY HOUSE AMENDMENTS "A" (H-1053) AND "B" (H-1054)** thereto.)

(In Senate, April 27, 2006, Reports **READ**. Motion by Senator **DAMON** of Hancock to **ACCEPT** Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1036)** Report, in **NON-CONCURRENCE, FAILED**.)

The Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-1037)** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "B" (H-1037) **READ**.

House Amendment "A" (H-1053) to Committee Amendment "B" (H-1037) **READ**.

Senator **DAMON** of Hancock moved to **INDEFINITELY POSTPONE** House Amendment "A" (H-1053) to Committee Amendment "B" (H-1037) **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

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

Senator **NASS:** Thank you, Madame President. I appreciate taking each step slowly here. May I ask a question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **NASS:** Thank you, Madame President. For anybody who would care to explain what this one is, so we all can understand this.

THE PRESIDENT: I can answer that question. House Amendment A has been put on by Representative Duprey and has to do with legislative motorcycle license plates.

On motion by Senator **DAMON** of Hancock, House Amendment "A" (H-1053) to Committee Amendment "B" (H-1037) **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

House Amendment "B" (H-1054) to Committee Amendment "B" (H-1037) **READ** and **ADOPTED**, in concurrence.

On motion by Senator **GAGNON** of Kennebec, Senate Amendment "B" (S-641) to Committee Amendment "B" (H-1037) **READ**.

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

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. This is a relatively simple amendment although it may be somewhat controversial. Yesterday we heard in quite detail the needs of the state in terms of why we are looking for this GARVEE money from the federal government and we had a full explanation of what the GARVEE was all about. I had always assumed that the GARVEE money was somewhat like tax anticipation notes for municipalities. That they need to send out so that they could get their projects rolling and then the taxes would come in and pay that. In fact it's not even that. If

you read the third page of the amendment which came from the bill from yesterday, the GARVEE bonds issued under the provisions of this part do not constitute a debt or liability of the state or any political subdivision of the state or a pledge of the full faith and credit of the state but are payable solely from the funds and revenues pledged for that purpose. This is kind of like buying your son or daughter a car, co-signing the loan, and making the payments for him or her. You are making the payments, you are co-signing, and if there is some type of default on it the son or daughter isn't responsible. It's probably not a good way to raise your kids, but this is very similar to that.

This is essentially a front-loading of money from the federal government. The needs are so diverse and so extensive in the state of Maine that the \$60 million probably isn't nearly enough to handle what needs to be done. We know it's not enough to handle what needs to be done, but I think it's very important to do.

The second part of this bill would defer the increase that would be occurring July 1, 2006 in the gas tax. It will amount to just under 1¢ a gallon, .8¢ for gasoline and .9¢ for diesel. Quite frankly, I think we are at a point where the gas prices are so high that this is almost consequential. It's very interesting that on the way here this morning, and based on some news reports last night, the news was just flooded with this information last night, if you didn't catch the news. The average price of gasoline right now in Portland is \$2.89 a gallon. In Waterville it is \$2.92 a gallon. In Bangor it's \$2.95 a gallon. It's interesting that there is actually another news piece that was done that this guy in the southern part of the state, I can't remember the name of the town, has a website that he's volunteering his time to do. As he travels along his route to go to work, or wherever he might be going, he monitors what the gas prices are along the way and puts them on a website so that people can then go to that website and figure out where they might drive along their path, we hope, to save a couple of pennies on a gallon of gas.

Somewhere along the way there has got to be some outrage about the price of gasoline in this country. It's incredible what we are paying these days. Almost \$3 a gallon, close to \$4 a gallon, and over \$4 a gallon in some parts of the country. Ironically, yesterday Exxon Mobil released their profits for the first quarter of the year. Exxon Mobil reported profits this last quarter of \$8.4 billion. These are profits. This is after the processing of the fuel or the petroleum. This is after paying those big salaries to their chief executives and the people who are retiring and leaving the company. This is after all the expenses. \$8.4 billion in the first quarter. This is the fifth highest quarterly profit in the history of the United States of any U.S. company. This amounts to \$93 million in profits a day. \$93 million a day in profits while Americans are paying \$3 and \$4 a gallon for gasoline. In the GARVEE bond we are talking about \$60 million. If they could just give us a part of their day in profits we'd be all set. That's what we are looking for.

We can't do much about those prices at this level. I hope that others will at other levels. One of the things we can do for the consumers of Maine is all we can, do the best we can. Let's take care of the roads as best we can. Let's draw down those federal funds as quickly as we can to repair roads. Let's try to save consumers a little bit of money at the pumps this year, at the height of tourism season. As a matter of fact, we hope it will be a good tourist year because gas prices will be high and we hope people won't be flying around places, that they will just drive north to Maine. We don't know. What has been interesting is that a few days ago the Legislative Council got a report from the Fiscal

Office that showed us where our income was and how things were going. All of the numbers were up. Sales tax revenues were going up. Income tax is going up higher than expected. The only one that is down is the gas tax. What is interesting about the gas tax, flip into my tax hat from a few years ago and the work that we did a few years ago, is that the gas tax is unlike the sales tax because the sales tax is a percentage of what you pay. If we suddenly have this surge in prices of refrigerators in the state of Maine, if the price of a refrigerator has doubled in the state of Maine, the State of Maine's revenues through the sales tax would double because the sales tax is on automatic pilot. It's a percentage of the price unlike the gas tax that is a price per gallon that doesn't change. Just think if we had it as a percentage of the total, if it was actually a sales tax, a percentage. We'd be flush with cash. We probably wouldn't need the GARVEE bonds because at \$3 or \$4 a gallon we'd be making all kinds of money. Ironically, it's gone down because with the high price of gasoline people are not driving as much. True, they are becoming more efficient and getting more efficient cars, but the reality is that the high prices are making people buy less gas and thinking twice about that trip. As a consequence it's going to hurt the Highway Fund a little bit because people are not buying as much gas.

A lot has been said in the past about the automatic increases. I'll put my Transportation hat on now. I was on the Transportation Committee a few years ago when it was passed and we discussed it. If I recall correctly, the good Senator from Knox, Senator Savage, was the chair of the committee at the time. We talked about indexing. She, in particular, had a real problem with the fact that it would just be indexed. I don't mean to speak for her, but she had a real problem with the fact that it would be indexed and just go on automatically without any real legislative action. I remember we sat in the Chief Executive's office and tried to work out some solution to this. The solution we came up with was that we would move forward with the indexing so that the departments could prepare their annual budgets but they would be required to put in a bill each time to lower that, so that we would actually see what happened. That's not automatic pilot, that's a review. The good Senator accepted that. When I talked about her courage the other day, it was extraordinary back then. That's what we passed. It's working because we have the opportunity now, with this amendment, to suspend that increase. Let's give up the \$7 million that we were getting this year, help consumers as much as we can, and then trade that for the \$60 million from the federal government. That's what this amendment does.

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

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

Senator **NASS:** Thank you, Madame President, ladies and gentlemen of the Senate. This bill is the highway supplemental budget. In essence it is adjustments that we need to make to the Highway Fund budget as we did with the General Fund budget a few weeks ago. This is connected, for political purposes I guess, together. These two things are hooked together. Essentially, the amendment would authorize the borrowing of \$60 million against future revenues from the federal government through the federal

gas tax. That would be \$60 million as was in the Majority Report, which we just defeated. In exchange for that we'd be giving up roughly \$7.8 million in indexed gas tax for the next indexing period that will start July 2007.

There are two points I'd like to make tonight. One is that we still would be borrowing against future revenues. It would be my preference, and I think so far we've held to using this borrowing power for emergencies. The Waldo-Hancock Bridge certainly fit that crisis. Who would believe that if we should use this money ahead of time that it's anything but buy now and pay later? Why would we believe that the road situation is going to be any less costly in the future and that we're going to need all of this revenue, both state and federal gas tax, to deal with that situation, whether it's one year from now or two years from now or five years from now? Why would we want to use that stream of money now? The usual answer is because it's going to be cheaper now to do it. I don't think it's going to be cheap enough to start going down this path and to start using this money ahead of time thinking that somehow things are going to be better in the future. That's wishful thinking. The states that have done it, Massachusetts and Texas, are paying the price because when we do that we use it up, use up that authority, and the money has to come from someplace else or then our roads will deteriorate. We'll have lost our ability and lost the resource to do anything about it. We'll have sold it, sold the cash flow and used it now, used it early.

That's the one point. This is essentially a return to the Majority Report with only \$7.8 million difference in indexing. I think the more important thing is the deal. This is the connection to the Supplemental Budget. In good faith, we agree, we as in all of us, agreed to the deal. There was only one person in this room who voted against the Supplemental Budget. Everybody else agreed to the deal. I'm hearing people say, 'Well, I didn't agree to that. I wasn't in the room. I didn't agree.' You did agree, you voted for it. To say you didn't know about it now is a pretty weak argument. You did know. You should have known about it. You voted for it. Do you want to go home and say to people that you voted for or against something but didn't really know what you was doing? You voted for the Supplemental Budget. You accepted the deal. That's how I view it. So, Madame President, I think you are obliged to vote against this amendment. The deal is no new borrowing for roads and bridges because we already spent the money. We had choices. We made the choices. We now have to live with it until there are more revenue sources. So, Madame President, I urge a vote against this amendment. Let's go on to pass the Minority Report and go home. Thank you.

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

Senator **DAMON:** Thank you, Madame President, men and women of the Senate. I don't know how I can do this and not sound angry, so I'm going to try to smile. When I have heard some of the arguments that I had heard yesterday and I hear some of those same arguments today here is my reaction. For those of you who think we are not in an emergency situation presently and thus we don't need to borrow I can't tell you strongly enough how mistaken you are. When the first highway fatality is blamed on bad roads or poor road conditions we are in an emergency. Very recently a State Police cruiser, a cruiser that we paid for through the people's money in the state of Maine, suffered \$2,000 worth of damage by traveling over a bad road.

\$2,000 what's that? What is the \$600 that it cost me when I had a broken wheel rim? What's the \$2,500 that it cost my constituent who called to say that the front end was taken out of his car because he hit a pothole and he wanted me to pay for it? Let me keep smiling.

We're in an emergency and don't you forget it. It's time for us to borrow and if you want to couchant and say it's using all of our existing and possible federal future funds, you're wrong again. We're using about 2% of the Federal Highway Fund dollars that are coming into this state and we're using it for the next 15 years to leverage \$60 million now. You know what else? If the Federal Highway Fund says that it's not going to give any money to Maine, which would be the first time since 1916, if it says that tomorrow, next year, or ten years down the road, Maine is not on the hook for that money. We have no encumbrances on that money. The federal law that created the GARVEE funding opportunity says so. It's not like the full faith and credit of the State of Maine. To portray it like it is that is wrong.

We've also heard that we've already spent the money. Yes, we spent a lot of money. We spent about \$600 million in the biennium coming out of the Highway Fund budget for roads, bridge, and transportation infrastructure. That's a lot of money. I'm not denying we haven't spent that. What I am simply saying to you is that there are \$130 million of projects that were scheduled to be done, that we announced to be completed, in your hometown, in my hometown, and in hometowns throughout this state. We're not able to do them because we have a gap in that Highway Fund budget. It's a gap that wasn't caused because we already spent the money. It was a gap that was caused by the decline in revenues through the Highway Fund fuel tax. A gap that was caused because of escalating construction costs of materials. A gap that was caused because of late payments from the Federal Highway Fund. Those were the reasons why we have the gap that we have today. That's the reason why we need to take care of it.

I would urge my colleagues to vote for this amendment so that we can, indeed, move forward and do what the people of the state of Maine want us to do and expect us to do. I would hope that you would vote for this amendment which saves, as best we can save, the tax payers of Maine, the motorists of Maine, a penny a gallon on the exorbitant cost of their fuel and at the same time fix the roads that they drive on. Those are two things that are very important and two things that we can do here tonight.

Finally, Madame President, we talk about the deal. We talk about the deal and because we have voted for, or in one case not, our Supplemental Budget there is the assumption that we have accepted and approved of the deal. I'm not trying to speak for my 34 other colleagues here. I'm certainly not trying to speak for those who were embroiled in those very difficult negotiations that resulted in a deal which has resulted in a 2/3 Supplemental General Fund Budget. I am speaking for me when I say the deal that I learned about was that there would be no General Obligation Bonds. That was the deal and that was the deal to which I cast my vote on the budget. I have since learned that it was not limited to simply General Obligation Bonds, that it was other bonds as well. That it was GARVEE bonds such as we are talking about tonight. That it was revenue bonds, which we are not talking about tonight but is another bonding vehicle. I didn't know that when I cast my vote in support of the budget. I also didn't know what I have found out since even that time, that the deal was limited solely to transportation borrowing. I will tell you without equivocation had I known that this was the deal I could

not have supported the budget. I did not know that. Shame on me for not getting that information, but I did not know that. I do know it now, and what I also know now is the same thing that you know now, is that our roads need to be fixed, that those projects need to be put back into the cue, and that those potholes in front of your house, my house, and your constituent's houses need to be fixed. In this amendment that's before us tonight we can also do that and help save the taxpayers of the state of Maine as they buy their fuels. I think that the amendment before us is brilliantly structured. I congratulate and commend my colleague, the Senator from Kennebec, Senator Gagnon, for crafting it and offering it. I very strongly, very seriously, would ask you to set aside what is in other ways an election year philosophy and vote for this amendment. Thank you, Madame President.

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

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. In our caucus today we had an interesting meeting with Commissioner Wyke and there was some discussion on how to address our needs. There was also a discussion that referred to the budget stabilization fund. We specifically asked her if the Chief Executive feels that the road situation in this state is at the level of an emergency. She told us that it wasn't. If there was an emergency I think we'd be more than justified to go and use budget stabilization fund money but this money that we bond, if this goes forward, won't even effect it until the next year's construction after it's passed by the voters. I'm trying to get to the emergency. I'm having a hard time reconciling it. I'm not sure where the indexing portion came into this. I guess we've heard some political things and maybe it's political. Maybe we want to get Republicans to vote against indexing. I assure you that I have an amendment that we can do a tit-for-tat when we're done. Taking 2% of the Highway Fund for the next 15 years. Who does that take money from? It takes it from our kids. I'm not willing to do that. I guess what troubles me the most is that when I signed on to this, to the budget and the deal, I think we agreed to add \$15 million to transportation. We were told there was going to be between \$15 million and \$25 million more because we all want to fix our roads. Now that part of the deal is all done, so we break the deal and because of wordsmithing, because a GARVEE bond isn't a bond, or what it is. When we come here we have to try to be as straight as possible. I always try, whether people are happy or not, when I tell somebody something I try to do it. I try to follow through. When I leave here I hope I can do the same thing. I hope every one of you will be able to do that same thing as well. Thank you, Madame President.

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

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

THE PRESIDENT: The Senator may pose his question.

Senator **DOW:** Thank you, Madame President. It's a mathematical question. I'm confused on the 2%. If \$60 million is 2% than 100% is \$3 billion. I'd like to know where the \$3 billion comes from.

THE PRESIDENT: The Senator from Lincoln, Senator Dow poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Hancock, Senator Damon.

Senator **DAMON:** Thank you, Madame President. Thanks to the good Senator from Lincoln, Senator Dow, for the question. It is not 2% of all of our future Highway Fund dollars in terms of \$3 billion. It is 2% of money that will be coming forward from us in each of the years. Actually it averages over 2%. I think it starts out to be accurate about 3-1/2% and then through the course of the amortization and 15 year cycle it drops to less than 2%. I used the figure of averaging 2% of our Highway Fund dollars to leverage a bond of \$60 million. I'm sorry I don't remember the number that you came up with, it might have been \$3 billion. I can't verify or deny that in the next 15 years \$3 billion will be coming to the State of Maine from the Federal Highway Fund. It may be or it may not be. I can find that answer for you. It's a good question, but I think that your real question was where is it coming from? It's coming from fuel taxes which are being sent in by the State of Maine to the federal government and returned to us at less than their dollar-for-dollar value. That's how we get money from our Federal Highway Fund. It's the money we sent in and is returned back to us. I hope that helps.

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

Senator **MILLS:** Thank you, Madame President and men and women of the Senate. For a dozen years I've been coming down here and for a dozen years, as a member of the Republican caucuses in the Senate and in the House, it has been a consistent priority of my Party to borrow money on occasion and to spend money on occasion for highways and bridges. Whenever there has been a bond package negotiated it's the Republican position that we ought to be allocating our bonding capacity to this good cause. We have lost those battles year after year after year in favor of bonding for fluffy stuff that I can't even begin to itemize for you. If I did the research it would take us half an hour to mention all the things that we have borrowed money for over the past decade that has gone to stuff that really wasn't a capital expenditure. It has been this Party that has repeatedly called for using our bonding capacity to do that hard stuff like repairing our aging infrastructures as it ages in place. We've not met those obligations, to be sure. Now that we've borrowed money for every other purpose under the sun, now that we have a \$3 billion obligation to the pension system and \$1.5 billion that we owe for unfunded liabilities for health insurance, now that we've drained the \$88 million that we had in a trust fund for health insurance and spent it a budget or two ago, and now that we've blown all the money that's available from tax revenues, all of a sudden the other Party has discovered that the highways are in poor shape. I think we've been there for years. Of course it is a priority. We've got to sort things out and borrowing our way out of this isn't the answer. This state is heavier in debt than almost any other state in the union of comparable size. We have got to stop this habit. Last year at this time, on March 30, 2005, my friends on the other side of the aisle voted to borrow \$447 million and sell off the lottery, some \$46 million a year in annual revenue for 14 years, just to bring a budget together. People in Maine are tired of this borrowing. You can give it any fancy name you want to.

You can call it a GARVEE. You can say that the full faith and credit of the state isn't behind it. You can say it isn't real. You are still behaving like some kid with his first credit card, in my book.

We can also do the other part of this amendment. I may be alone in this perspective, but it is just as offensive. To cut a stream of revenue by \$7.8 million is a direct gift to Exxon. The reason is this; gasoline prices today are not set by the cost of producing the gasoline. If gas is at \$3 a gallon, it is at \$3 a gallon because of scarcity, because the market dictates that even a penny below \$3 creates scarcity. It's pure supply and demand. That's where all those excess profits are coming from that the oil companies are enjoying at our expense. Were they to reduce the price to say \$2.50 or so we would run out of gas. In order to avoid running out of gas the market sets the price at \$3. If we lower the gas tax by 1¢ Exxon will raise it by 1¢. When you reduce the gas tax by \$7.8 million you might as well write a check to these oil companies that you so disparage.

For two reasons I think this amendment goes in the wrong direction in both cases. It says let's borrow our way out of a crisis that we created by borrowing money for every other purpose under the sun and all of a sudden when we have an exigency in infrastructure we've got to borrow again. Secondly, I think to fiddle with the gas tax at this point is nothing but a gift to the oil companies and that is the last thing we should be doing in this market.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Gagnon to Adopt Senate Amendment "B" (S-641) to Committee Amendment "B" (H-1037). 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 (#473)

YEAS: Senators: ANDREWS, BARTLETT, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, SAVAGE, SCHNEIDER, STRIMLING, SULLIVAN

NAYS: Senators: BRENNAN, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, ROTUNDO, SNOWE-MELLO, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **GAGNON** of Kennebec to **ADOPT** Senate Amendment "B" (S-641) to Committee Amendment "B" (H-1037), **PREVAILED**.

On motion by Senator **DAMON** of Hancock, **TABLED** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "B" (H-1037) as Amended by House Amendment "B" (H-1054) and Senate Amendment "B" (S-641) thereto, in **NON-CONCURRENCE**.

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

Bill "An Act To Make Additional Allocations from the Highway Fund and Other Funds for the Expenditures of State Government and To Change Certain Provisions of State Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2005 and June 30, 2006" (EMERGENCY)
H.P. 1382 L.D. 1974

Tabled - April 28, 2006, by Senator **GAGNON** of Kennebec

Pending - **ADOPTION OF COMMITTEE AMENDMENT "B" (H-1037) AS AMENDED BY HOUSE AMENDMENT "B" (H-1054) AND SENATE AMENDMENT "B" (S-641)** thereto, in **NON-CONCURRENCE**

(In House, April 27, 2006, the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-1037)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-1037) AS AMENDED BY HOUSE AMENDMENTS "A" (H-1053) AND "B" (H-1054)** thereto.)

(In Senate, April 27, 2006, Reports **READ**. Motion by Senator **DAMON** of Hancock to **ACCEPT** Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1036)** Report, in **NON-CONCURRENCE, FAILED**.)

(In Senate, April 28, 2006, the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-1037)** Report **ACCEPTED**, in concurrence. **READ ONCE**. Committee Amendment "B" (H-1037) **READ**. House Amendment "A" (H-1053) to Committee Amendment "B" (H-1037) **READ**. On motion by Senator **DAMON** of Hancock, **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**. House Amendment "B" (H-1054) to Committee Amendment "B" (H-1037) **READ** and **ADOPTED**, in concurrence. On motion by Senator **GAGNON** of Kennebec, Senate Amendment "B" (S-641) to Committee Amendment "B" (H-1037) **READ** and **ADOPTED**, in **NON-CONCURRENCE**.)

On motion by Senator **COURTNEY** of York, Senate Amendment "E" (S-652) to Committee Amendment "B" (H-1037) **READ**.

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

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. This amendment addresses the indexing issue that we all are so concerned about that we included it in the bond issue. This will repeal the gas tax indexing permanently. If we need to raise the gas tax we'll have to put a bill in, like every other law that we change, rather than having it on the autopilot that it's been on. I would request your support. Thank you, Madame President.

Senator **DAMON** of Hancock moved to **INDEFINITELY POSTPONE** Senate Amendment "E" (S-652) to Committee Amendment "B" (H-1037).

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.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Hancock, Senator Damon to Indefinitely Postpone Senate Amendment "E" (S-652) to Committee Amendment "B" (H-1037). 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 (#474)

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

NAYS: Senators: ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROTUNDO, SNOWE-MELLO, TURNER, WESTON, WOODCOCK

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **DAMON** of Hancock to **INDEFINITELY POSTPONE** Senate Amendment "E" (S-652) to Committee Amendment "B" (H-1037), **PREVAILED**.

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 pending question before the Senate is Adoption of Committee Amendment "B" (H-1037) as Amended by House Amendment "B" (H-1054) and Senate Amendment "B" (S-641) thereto. 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 (#475)

YEAS: Senators: ANDREWS, BARTLETT, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, SAVAGE, SCHNEIDER, STRIMLING, SULLIVAN

NAYS: Senators: BRENNAN, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, ROTUNDO, SNOWE-MELLO, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, Committee Amendment "B" (H-1037) as Amended by House Amendment "B" (H-1054) and Senate Amendment "B" (S-641) thereto, **ADOPTED**, in **NON-CONCURRENCE**

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

Senator **DAVIS** of Piscataquis requested a Roll Call.

Senator **DAMON** of Hancock moved the Senate **RECONSIDER** whereby it **ADOPTED** Committee Amendment "B" (H-1037) as Amended by House Amendment "B" (H-1054) and Senate Amendment "B" (S-641) thereto, in **NON-CONCURRENCE.**

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.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#476)

YEAS: Senators: ANDREWS, BARTLETT, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, SAVAGE, SCHNEIDER, STRIMLING, SULLIVAN

NAYS: Senators: BRENNAN, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, ROTUNDO, SNOWE-MELLO, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **DAMON** of Hancock to **RECONSIDER** whereby Committee Amendment "B" (H-1037) as Amended by House Amendment "B" (H-1054) and Senate Amendment "B" (S-641) thereto, was **ADOPTED**, in **NON-CONCURRENCE, PREVAILED.**

On motion by Senator **DAMON** of Hancock, Senate Amendment "C" (S-646) to Committee Amendment "B" (H-1037) **READ.**

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

Senator **DAMON:** Thank you, Madame President, men and women of the Senate. This amendment simply removes the emergency preamble to the bill so that it can become effective in 90 days after the adjournment of this legislature.

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.

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

Senator **PLOWMAN:** Thank you, Madame President. I have some questions regarding the effect of this amendment. First of all, if we are not coming back until the end of May and will be doing some work into May and June, we are talking about not having a highway budget until September. Will that allow enough time to meet the Secretary of State's requirements to have language available to put on the November ballot and allow for the issuance of absentee ballots and ballots to be sent everywhere? If you haven't taken this into consideration, I'd appreciate it because if you are going to offer a referendum I suppose that we should know about this. If you are not going to be offering a referendum then I guess that was moot. I can't remember if that is in there or not.

Second of all, if we're not going to do this until September I think we're going to be back here in December and could do a bond package then and put a bond package out in June, just about the time that you would be allowed to issue these bonds. The horseplay that went on tonight moves nothing forward faster than next June but certainly hurts what's going to be left of the session. I congratulate you on gamesmanship, but you have not moved anything forward and you've only created havoc. It'll look good but you've got nothing.

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

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

THE PRESIDENT: The Senator may pose his question.

Senator **DOW:** Thank you, Madame President. Is removing the emergency preamble stall off the cancellation of the gas tax increase until after the summer season is over?

THE PRESIDENT: The Senator from Lincoln, Senator Dow poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Hancock, Senator Damon.

Senator **DAMON:** Thank you, Madame President. To the good Senator from Lincoln, Senator Dow, I would presume that it does. I wish that we didn't have to remove the emergency but apparently we do.

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

Senator **PLOWMAN:** Thank you, Madame President. I would like the record to reflect that you did nothing for the drivers of the state of Maine and yet you finagled a way to come up with the bond. Congratulations, I hope that actually makes the news instead of Democrat Party helps drivers in the state of Maine.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Hancock, Senator Damon to Adopt Senate Amendment "C" (S-646) to Committee Amendment "B" (H-1037). 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 (#477)

YEAS: Senators: ANDREWS, BARTLETT, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, SAVAGE, SCHNEIDER, STRIMLING, SULLIVAN

NAYS: Senators: BRENNAN, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, ROTUNDO, SNOWE-MELLO, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **DAMON** of Hancock to **ADOPT** Senate Amendment "C" (S-646) to Committee Amendment "B" (H-1037), **PREVAILED**.

On motion by Senator **SAVAGE** of Knox, Senate Amendment "A" (S-635) to Committee Amendment "B" (H-1037) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Savage.

Senator **SAVAGE:** Thank you, Madame President. Because this has been such a controversial issue, hopefully, this amendment will calm things down a little. This amendment makes changes to ensure compliance with the Federal Commercial Motor Vehicle Safety Act of 1986 to preserve approximately \$4.5 million of Federal Highway Funds. Specifically, this amendment makes state law consistent with applicable federal regulations granting waivers from the commercial driver's licensing requirements for persons operating fire apparatus, military vehicles, and farm trucks. The amendment further authorizes the Department of Public Safety, Bureau of State Police, to adopt by reference the federal regulations establishing minimum fines for out-of-service violations. This is something that we are doing currently but the federal government wants to see it in our statutes. That's what this amendment does. Thank you, Madame President.

On motion by Senator **SAVAGE** of Knox, Senate Amendment "A" (S-635) to Committee Amendment "B" (H-1037) **ADOPTED**.

On motion by Senator **DAMON** of Hancock, Senate Amendment "D" (S-650) to Committee Amendment "B" (H-1037) **READ**.

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

Senator **DAMON:** Thank you, Madame President, men and women of the Senate. This amendment simply balances the budget that was changed by a previous amendment that took the emergency preamble off. This is the amendment that brings the budget back into balance. I urge its adoption. Thank you.

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Hancock, Senator Damon to Adopt Senate Amendment "D" (S-650) to Committee Amendment "B" (H-1037). 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 (#478)

YEAS: Senators: ANDREWS, BARTLETT, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, SAVAGE, SCHNEIDER, STRIMLING, SULLIVAN

NAYS: Senators: BRENNAN, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, ROTUNDO, SNOWE-MELLO, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **DAMON** of Hancock to **ADOPT** Senate Amendment "D" (S-650) to Committee Amendment "B" (H-1037), **PREVAILED**.

On motion by Senator **BRYANT** of Oxford, Senate Amendment "F" (S-657) to Committee Amendment "B" (H-1037) **READ**.

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

Senator **BRYANT:** Thank you, Madame President, men and women of the Senate. This is a technical amendment that disallows the sportsman registration plate to go below a three-digit number.

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.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Oxford, Senator Bryant to Adopt Senate Amendment "F" (S-657) to Committee Amendment "B" (H-1037). 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 (#479)

YEAS: Senators: BARTLETT, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, SCHNEIDER, STRIMLING, SULLIVAN

NAYS: Senators: ANDREWS, BRENNAN, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

16 Senators having voted in the affirmative and 19 Senators having voted in the negative, the motion by Senator **BRYANT** of Oxford to **ADOPT** Senate Amendment "F" (S-657) to Committee Amendment "B" (H-1037), **FAILED**.

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 Hancock, Senator Rosen.

Senator **ROSEN:** Thank you, Madame President. Before we go ahead and complete our action tonight I do have a question I would like to pose.

THE PRESIDENT: The Senator may pose his question.

Senator **ROSEN:** Thank you, Madame President. In the conversation that has gone on during the last few days there has been a great deal of discussion in this chamber and outside referring to the 143 projects in 112 communities. When I read the bill that's before us it simply states that the GARVEE will be used to fund qualified transportation projects. It doesn't refer to a specific list. It doesn't refer to deferred projects. It simply makes that general statement. Remembering bond negotiation days with transportation issues, a qualified transportation project is very broadly defined. Ferry projects, rails, highways, air, and bridges. It is very broad. My question is whether the measure that is about to be voted on does in fact satisfy the delayed projects and the list of 143 projects in 112 communities, particularly some of those communities that received correspondence from the Chairs of the Transportation Committee. Thank you.

THE PRESIDENT: The Senator from Hancock, Senator Rosen poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Hancock, Senator Damon.

Senator **DAMON:** Thank you, Madame President. I'd be happy to try to respond to my good friend and colleague, the Senator from Hancock, Senator Rosen. The projects that were deferred, taken off the list, were projects that varied. They were, first of all, road and bridge projects and not ferry projects, air projects, or rail projects. They varied from simply overlay paving, or patching, to reconstruction projects. Thus, if you look at the list and you see the extent of the project, the number of miles that might be involved in it, and the cost of it, it's clear that you can see whether it's simply a skim coat paving job or a reconstruction of a segment of the highway. These bonds, this GARVEE bond, the General Fund contribution, and the Highway Fund contribution, all now totaling the \$90 million, is bringing those projects back into the cue, hopefully into their completion. More specifically to your question, I believe that the bond portion of the money is not to be spent on skim coating. The bond portion of the money is to be

spent on construction and reconstruction of infrastructure to bring it up to modern construction standards whereby we can continue to use it and profit from it. Thank you, Madame President.

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

Senator **ROSEN:** Thank you, Madame President, for your indulgence. Just to clarify again the question that was asked. The letters that went out from the Chairs of the Transportation Committee to these communities indicates that projects in those communities will be delayed or will not happen at all if the GARVEE does not go forward. It was confusing trying to determine that the money that the legislature brought together in a 2/3 fashion and voted to put together the \$15 million in the General Fund and the \$15.8 million in the Highway Fund for that \$30.8 million apparently did not satisfy those lists of projects. Somehow those were attached to this GARVEE bond. I appreciate the clarification. Thank you.

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

Senator **DAMON:** Thank you, Madame President. I would apologize to the good Senator from Hancock, Senator Rosen, and to any of the other members who may have received a letter from either myself or my colleague on the other end of the hall who co-chairs my committee. Those letters were authored by us, were sent by us, were paid for by us, and were an attempt to inform those communities who had projects listed, projects that may have been deferred, in an effort to get them back into the cue, as I've referred to it, and back into the construction list that the combination of the \$15 million from the General Fund, the \$15.8 million from the Highway Fund, and the \$60 million from the GARVEE bond or borrowing which was the keystone and always has been of the funding recommendation informing this Body as well as the Transportation Committee as well as the Chief Executive that the project, that was the deal, that was the solution, and that's what we were trying to accommodate. If there was some misunderstanding or confusion, since I wrote the letter along with my colleague, I apologize to you for that.

THE PRESIDENT: The pending question before the Senate Adoption of Committee Amendment "B" (H-1037) as Amended by House Amendment "B" (H-1054) and Senate Amendments "A" (S-635); "B" (S-641); "C" (S-646); and "D" (S-650) thereto. 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 (#480)

YEAS: Senators: ANDREWS, BARTLETT, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, SAVAGE, SCHNEIDER, STRIMLING, SULLIVAN

NAYS: Senators: BRENNAN, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, ROTUNDO, SNOWE-MELLO, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, Committee Amendment "B" (H-1037) as Amended by House Amendment "B" (H-1054) and Senate Amendments "A" (S-635); "B" (S-641); "C" (S-646); and "D" (S-650) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-1037) AS AMENDED BY HOUSE AMENDMENT "B" (H-1054) AND SENATE AMENDMENTS "A" (S-635); "B" (S-641); "C" (S-646); AND "D" (S-650) thereto, in NON-CONCURRENCE.

Sent down for 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:

Act

An Act To Replace Municipal Revenues Subject to Business Equipment Property Tax Exemption

H.P. 1452 L.D. 2056
(C "A" H-1078)

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

Senator **STRIMLING:** Thank you, Madame President. Before we send this down to the Table, there was one piece that I just wanted to read into the record that I thought was important and we didn't talk about earlier. It's section 69. It's legislative findings and the intent. This was an important part of our negotiations and felt it was important that we at least make sure that it's on the record, both verbally and in writing.

Legislative finding and intent, point number two. It reads, 'It is the intent of the legislature to fully fund transfers to the Disproportionate Tax Burden Fund under section 700A, that is revenue sharing 2, subsection 1, and reimbursements under the business equipment tax reimbursement program under section 6652, subsection 4, paragraph B'. That is the section that deals with BETR expired property.

We had a lot of discussion about those two programs, the importance of those two programs, and the importance that both of those programs be fully funded as put in this legislation. I wanted to make sure, Madame President, that it was on the record exactly what the intent of the committee was and what the intent of the legislature is in passing this. Thank you very much, Madame President.

Senate at Ease.

Senate called to order by the President.

Senator **ROTUNDO** of Androscoggin moved the Bill and accompanying papers be placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

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

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

THE PRESIDENT: The Senator may pose his question.

Senator **COURTNEY:** Thank you, Madame President. We just passed a bill, the teacher's pay bill, that had a fiscal note in the out years. I don't believe we sent that to the Appropriations Table. I'm wondering why we're sending this one?

THE PRESIDENT: I have called the Fiscal Office and they assure me that this needs to go to the Appropriations Table. I don't make that ruling, that comes to us from the Fiscal Office.

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

Act

An Act Regarding the Sentencing of Persons Convicted of Gross Sexual Assault against Victims under 12 Years of Age

H.P. 1224 L.D. 1717
(C "C" H-1058)

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

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

REPORTS OF COMMITTEES

Senate

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Establish the Hospital and Health Care Provider Cooperation Act"

S.P. 852 L.D. 2110

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-654)**.

Signed:

Senators:

- MAYO of Sagadahoc
- MARTIN of Aroostook
- ROSEN of Hancock

Representatives:

- PINGREE of North Haven
- WALCOTT of Lewiston
- GROSE of Woolwich
- WEBSTER of Freeport
- MILLER of Somerville
- BURNS of Berwick
- CAMPBELL of Newfield
- GLYNN of South Portland

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

Signed:

Representatives:

- SHIELDS of Auburn
- LEWIN of Eliot

(Representative SOCKALEXIS of the Penobscot Nation - of the House - supports the Majority **Ought To Pass as Amended** Report.)

Reports **READ**.

On motion by Senator **SULLIVAN** of York, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT**.

Senate at Ease.

Senate called to order by the President.

Senator **GAGNON** of Kennebec was granted unanimous consent to address the Senate off the Record.

On motion by Senator **GAGNON** of Kennebec, **RECESSED** until 10:00 in the evening.

After Recess

Senate called to order by the President.

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

REPORTS OF COMMITTEES

Senate

Divided Report

The Majority of the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Protect Health Insurance Consumers" (EMERGENCY)

S.P. 736 L.D. 1935

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-655)**.

Signed:

Senators:

- SULLIVAN of York
- MAYO of Sagadahoc

Representatives:

- PERRY of Calais
- BRAUTIGAM of Falmouth
- PILON of Saco
- MARRACHÉ of Waterville
- HARLOW of Portland

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (S-656)**.

Signed:

Senator:

- MILLS of Somerset

Representatives:

- McKANE of Newcastle
- LINDELL of Frankfort
- VAUGHAN of Durham
- GLYNN of South Portland
- RICHARDSON of Warren

Reports **READ**.

Senator **SULLIVAN** of York moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-655)** Report.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#481)

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

NAYS: Senators: ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **SULLIVAN** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-655)** Report, **PREVAILED.**

READ ONCE.

Committee Amendment "A" (S-655) **READ** and **ADOPTED.**

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

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

Senator **SULLIVAN:** Thank you, Madame President. With your indulgence, I'd like to read a letter that was received by both myself and my co-chair. It's addressed to myself and Representative Perry.

'Our associations join the legislative leadership in a shared commitment to the goals of Dirigo Health. We look forward to continuing our joint efforts to extend health insurance to all Maine people. As an expression of our support to the Dirigo Health Program, should Committee Amendment A to L.D. 1935 pass as drafted, the undersigned agree to the following:

Anthem Blue Cross and Blue Shield of Maine will agree to forego the 2006 group EMP in the amount of \$11 million, including returning the portion of the 2006 group EMP which has already been paid. Anthem Blue Cross and Blue Shield of Maine agrees to forego any final settlement of the 2005 EMP scheduled to occur in June 2006. Health insurance carriers who included the Savings Offset Payment in their premiums and who belong to the Maine Association of Health Plans will provide written notification to policy holders that their rates will be adjusted because the Savings Offset Payment has been reduced as a result of action taken by the legislature. Anthem Blue Cross and Blue Shield agrees to provide notice in its newsletter to certificate holders of the action taken by the legislature to reduce the Savings Offset Payment. The Maine State Chamber of Commerce will encourage in writing self-funded employer members who previously informed their employees of the impact of the Savings Offset Payment on their health insurance cost to notify employees their costs will be adjusted to reflect that the

Savings Offset Payment has been reduced as a result of action taken by the legislature. In addition we agree to notify the Joint Standing Committee on Insurance and Financial Services of our progress, including providing samples of correspondence.'

It is signed by the Maine Association of Health Plans, the Maine Hospital Association, the Maine State Chamber of Commerce, and Anthem Blue Cross and Blue Shield of Maine. Thank you for your indulgence.

PASSED TO BE ENGROSSED AS AMENDED.

Ordered sent down forthwith for concurrence.

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

HOUSE REPORTS - from the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Make Changes to the Laws Regarding Pine Tree Development Zones"

H.P. 1483 L.D. 2091

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-1026)** (12 members)

Minority - **Ought Not to Pass** (1 member)

In House, April 14, 2006, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1026).**

In Senate, April 27, 2006, the Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE.**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1026) AS AMENDED BY HOUSE AMENDMENT "A" (H-1065)** thereto, in **NON-CONCURRENCE.**

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

Senate at Ease.

Senate called to order by the President.

The following proceedings were conducted after 12:01a.m., Saturday, April 29, 2006.

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:

Act

An Act To Make Revisions to the Laws Governing Pesticide Control

H.P. 1330 L.D. 1890
(CC "A" S-642)

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

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:

Act

An Act Regarding the So-called Katie Beckett Benefits in the MaineCare Program

S.P. 93 L.D. 273
(C "A" S-647)

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

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:

Mandate

Resolve, Establishing an Apportionment Commission To Develop New Cumberland County Commissioner Districts

H.P. 1236 L.D. 1728
(S "A" S-639 to C "A" H-840)

Comes From the House, **FAILED FINAL PASSAGE.**

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 33 Members of the Senate, with 2 Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and signed by the President, in **NON-CONCURRENCE.**

Sent down for 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:

Act

An Act To Amend the Crime of Aggravated Criminal Mischief

S.P. 706 L.D. 1789
(C "A" S-504)

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

Act

An Act To Appropriate Matching Funds for the Construction of a Community Center in Oxford Hills

H.P. 405 L.D. 550
(C "A" H-1079)

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

Act

An Act To Ensure the Continued Ability of the Maine Economic Growth Council To Produce the Measures of Growth Report
S.P. 744 L.D. 1946

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

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

ORDERS

Joint Order

On motion by Senator **BRENNAN** of Cumberland, the following Joint Order:

S.P. 858

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Monday, May 22, 2006, at 10:00 in the morning.

READ and **PASSED**.

Sent down for concurrence.

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

ORDERS OF THE DAY

On motion by Senator **MARTIN** of Aroostook, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

Act

An Act To Replace Municipal Revenues Subject to Business Equipment Property Tax Exemption

H.P. 1452 L.D. 2056
(C "A" H-1078)

Tabled - April 28, 2006, by Senator **ROTUNDO** of Androscoggin

Pending - **ENACTMENT**, in concurrence

(In Senate, April 28, 2006, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence. **READ ONCE**. Committee Amendment "A" (H-1078) **READ** and **ADOPTED**, in concurrence. Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.)

(In House, April 28, 2006, **PASSED TO BE ENACTED**.)

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

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 To Enhance the Protection of Maine Families from Terrorism and Natural Disasters

S.P. 789 L.D. 2044
(H "D" H-1066;
S "B" S-651 to C "A" S-575)

This being an Emergency Measure and having received the affirmative vote of 35 Members of the Senate, with no Senators having voted in the negative, and 35 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.

Ordered sent down forthwith to the Governor's Office.

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Encourage Reporting of Potential Fraud in State Government"

S.P. 658 L.D. 1741
(C "A" S-543)

In Senate, April 3, 2006, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-543)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-543) AS AMENDED BY HOUSE AMENDMENT "C" (H-1081)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **SCHNEIDER** of Penobscot, the Senate **RECEDED** and **CONCURRED**.

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 Monday, May 22, 2006, at 10:00 in the morning.