

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

In Senate Chamber
Thursday
May 29, 2003

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

Prayer by Senator Peggy Rotundo of Androscoggin County.

SENATOR ROTUNDO: Good morning friends. Let us pray. Dear God, we celebrate spring's returning and the rejuvenation of the natural world. Let us be moved by this vast and gentle insistence, that goodness shall return, that warmth and life shall succeed. Help us to understand our place within this miracle. Let us see that as a bird now builds its nest bravely with bits and pieces, so we must build human faith. It is our simple duty. It is the highest art. It is our natural and vital role within the miracle of spring, the creation of faith. Amen.

Doctor of the day, Melanie Thompson, M.D. of South China.

Reading of the Journal of Wednesday, May 28, 2003.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act Regarding Wrongful Discharge"

H.P. 820 L.D. 1117

In House, May 8, 2003, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-265).**

In Senate, May 22, 2003, on motion by Senator **EDMONDS** of Cumberland, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-265) AS AMENDED BY HOUSE AMENDMENT "A" (H-527)** thereto, in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Bill "An Act To Establish a Moratorium on Genetically Engineered Plants"

H.P. 893 L.D. 1219

(S "A" S-229 to C "A" H-376)

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

In Senate, May 23, 2003, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-376) AS AMENDED BY SENATE AMENDMENT "A" (S-229)** thereto, in **NON-CONCURRENCE**.

Comes from the House, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.

On motion by Senator **BRYANT** of Oxford, the Senate **INSISTED** and **JOINED IN A COMMITTEE OF CONFERENCE**.

(See action later today.)

Joint Resolution

The following Joint Resolution:

H.P. 1202

JOINT RESOLUTION SUPPORTING WELL-MANAGED FORESTS AND SOUND FOREST PRODUCTS PROCUREMENT SYSTEMS

WHEREAS, the Maine Legislature recognizes the important progress many of Maine's forest landowners have made in implementing the standards of the Sustainable Forestry Initiative and the Forest Stewardship Council; and

WHEREAS, the owners of over 6,000,000 acres of Maine forest land have received independent 3rd-party certification of management of their lands under one or both of these systems; and Maine's forest industry contributes annually over \$5,000,000,000 to the State's economy and directly employs nearly 30,000 people, and the public has a justifiable and legitimate interest in the future vitality of Maine's forest-based economy; and

WHEREAS, the practice known as liquidation harvesting is inconsistent with the goals and objectives of the Sustainable Forestry Initiative and the principles and criteria of the Forest Stewardship Council; and

WHEREAS, the practice of liquidation harvesting, however limited, diminishes the public image of the forest industry and endangers the social license to practice responsible forest management; and

WHEREAS, one of the Sustainable Forestry Initiative's objectives is to broaden the practice of sustainable forestry by cooperating with forest landowners, wood producers, consulting foresters and program participants' employees who have responsibility in wood procurement and landowner assistance programs and one of its performance measures states that program participants shall clearly define and implement their own policies to ensure that mill inventories and procurement practices do not compromise adherence to the principles of sustainable forestry; and

WHEREAS, up to 70% of the virgin wood fiber in a product that carries the Forest Stewardship Council label may come from noncertified forests; and

WHEREAS, wood procurement policies have great potential to serve as a market-based solution to the problem of liquidation harvesting; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred Twenty-first Legislature now assembled in the First Regular Session, on behalf of the people of the State of Maine, encourage the Sustainable Forestry Initiative's state implementation committee and other appropriate bodies to encourage the development of purchasing policies by program participants that will reduce the amount of wood originating from liquidation harvesting operations that is purchased or brokered by Maine's forest products industry; and be it further

RESOLVED: That a similar process be undertaken by the Forest Stewardship Council and businesses that it certifies; and be it further

RESOLVED: That the State's forest products industry be encouraged to be vigilant in its efforts to obtain wood only from suppliers who have conducted responsible harvests that do not compromise the ability of the land to support a forest industry in the future.

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

READ and **ADOPTED**, in concurrence.

COMMUNICATIONS

The Following Communication:

S.C. 266

121ST LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS

May 28, 2003

The Honorable Beverly C. Daggett
President of the Senate of Maine
121st Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 121st Maine Legislature, the Joint Standing Committee on Education and Cultural Affairs has had under consideration the nomination of James Carignan of Harpswell, for appointment to the State Board of Education.

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

YEAS	Senators	2	Douglass of Androscoggin, Mitchell of Penobscot
	Representatives	10	Cummings of Portland, Andrews of York, Davis of Falmouth, Finch of Fairfield, Fischer of Presque Isle, Gagne-Friel of Buckfield, Ledwin of Holden, Murphy of Kennebunk, Norton of Bangor, Thomas of Orono
NAYS		0	
ABSENT		1	Sen. Brennan of Cumberland

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of James Carignan of Harpswell, for appointment to the State Board of Education be confirmed.

Signed,

S/Neria R. Douglass
Senate Chair

S/Glenn A. Cummings
House Chair

READ and **ORDERED PLACED ON FILE**.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **EDUCATION AND CULTURAL AFFAIRS** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 121st Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#127)

YEAS: Senators: None

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

ABSENT: Senator: PENDLETON

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **James Carignan** of Harpswell, for appointment to the State Board of Education was **CONFIRMED**.

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

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

ORDERS

Joint Resolution

On motion by Senator **STRIMLING** of Cumberland (Under suspension of the rules, cosponsored by Senators: BRENNAN of Cumberland, BROMLEY of Cumberland, President DAGGETT of Kennebec, DAMON of Hancock, DOUGLASS of Androscoggin, EDMONDS of Cumberland, HATCH of Somerset, MARTIN of Aroostook, TREAT of Kennebec), the following Joint Resolution:

S.P. 580

**JOINT RESOLUTION ESTABLISHING JUNE 15, 2003 AS
"WALK WITH THE ONES YOU LOVE DAY"**

WHEREAS, on Sunday, June 15, 2003, the Maine Speakout Project will sponsor its 6th annual "Walk with the Ones You Love" in the State of Maine; and

WHEREAS, these walks are being held to affirm our common humanity and desire for safety and equality and for all citizens to feel free to be themselves in public without fear of harassment or violence; and

WHEREAS, the "Walk with the Ones You Love" is being held to support committed relationships of all couples; and

WHEREAS, the walks are intended to diminish the isolation and harassment of sexual minority youth who consider suicide at twice the rate of their nongay peers; and

WHEREAS, during the walks, gay and nongay people will walk together to demonstrate a shared commitment to making our schools, streets and communities safe for our families and to the belief that all people in our State deserve the right to be who they are, love whom they wish and walk with whom they choose without fear; now, therefore, be it

RESOLVED: That June 15, 2003 be recognized as "Walk with the Ones You Love Day"; and be it further

RESOLVED: That We, the Members of the One Hundred and Twenty-first Legislature of the State of Maine now assembled in the First Regular Session, on behalf of the people of the State of Maine, take this occasion to urge citizens throughout the State to support and participate in these walks; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Maine Speakout Project.

READ and ADOPTED.

Ordered sent down forthwith for concurrence.

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **TAXATION** on Bill "An Act To Amend the Laws Governing the Deduction of Pensions, Retirement Benefits and other Income from State Income Tax"

H.P. 446 L.D. 583

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-534)**.

Comes from the House with the Report **READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-534)**.

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

READ ONCE.

Committee Amendment "A" (H-534) **READ and ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act to Ensure that Maine's Unemployment System is Responsive to the Needs of Today's Workforce"

H.P. 195 L.D. 240

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-482)**.

Signed:

Senators:

EDMONDS of Cumberland
STANLEY of Penobscot

Representatives:

SMITH of Van Buren
HUTTON of Bowdoinham
HATCH of Skowhegan
PATRICK of Rumford
JACKSON of Fort Kent

WATSON of Bath

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

Signed:

Senator:

BLAIS of Kennebec

Representatives:

TREADWELL of Carmel

CRESSEY of Baldwin

NUTTING of Oakland

HEIDRICH of Oxford

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-482) AS AMENDED BY HOUSE AMENDMENT "A" (H-528)** thereto.

Reports **READ**.

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

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

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act to Require that Certain Employees Be Paid on a Weekly Basis"

H.P. 834 L.D. 1131

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-193)**.

Signed:

Senators:

EDMONDS of Cumberland

STANLEY of Penobscot

Representatives:

SMITH of Van Buren

HUTTON of Bowdoinham

HATCH of Skowhegan

PATRICK of Rumford

JACKSON of Fort Kent

WATSON of Bath

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

Signed:

Senator:

BLAIS of Kennebec

Representatives:

CRESSEY of Baldwin
HEIDRICH of Oxford
NUTTING of Oakland
TREADWELL of Carmel

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **FAILED PASSED TO BE ENGROSSED AS AMENDED**.

Reports **READ**.

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

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

Senator **BLAIS:** Thank you, Madame President and fellow members of the Senate. This is a piece of legislation that is so poorly conceived it never should have even made it out of our committee. The legislation would reverse an update to the Maine Labor Law from 1999 from the last legislative session. For those of you that were here and remember that, that legislation did away with an archaic and costly requirement that certain employees be paid on a weekly basis. Before the change, Maine was only one of six states with such a provision, and Maine had the most stringent. In 1999, Maine actually eliminated an impediment on Maine business. Here we are contemplating putting it right back. The justification offered for this legislation is that low-income workers live week to week, and getting paid every two weeks is a burden. Of course, TANF, AFDC, and just about every other welfare program provides only monthly disbursements. Another argument is that unemployment benefits are paid weekly, but that is only because benefits must be calculated on a weekly basis. Because of constantly shifting tax rates and recording requirements for employers and the hefty fines for mistakes, most employers, even small mom and pop shops, outsource to a payroll agency these days. There is a cost each time payroll is run, for each payroll check, and for the wage administration that goes with it. Requiring payroll to be run four times a month instead of twice a month would, quite simply doing the math, double payroll costs for employers.

The House amended legislation before us tries to soften the blow in the real cost by limiting the applicability of the change to employees who make minimum wage or less. This amendment does not lessen the impact of this legislation, however. An employer with many seasoned, high-paid employees plus a few entry level, minimum wage employees, would either have to run two payrolls, which is an accounting nightmare, or just pay everybody on a weekly basis. Either way, costs will increase for Maine employers.

The Department of Labor, which testified in opposition to this bill, says about 2,000 persons in Maine are paid minimum wage. Another 7,000 tipped employees are paid less than minimum wage hourly, although they are guaranteed minimum wage if they do not make enough in tips. Since the legislation change applies only to minimum wage employees, employers presumably could get around the provision by paying entry level employees 1¢ more than the minimum wage. The result would be that only tipped employees, who leave work with cash in hand every day and have the least need for weekly pay, would be subject to weekly pay provisions. This is a bad bill in search of a problem that simply does not exist, but which has the potential to significantly increase the cost of doing business in Maine. Please join me in opposing the motion on the floor.

Same Senator requested a Division.

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

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. I think the only problem that exists is if you are someone who lives on a job that pays minimum wage. It's not much money. It's not much money if you have to wait two weeks. It's just plain not much money. That's the problem. This is an attempt to help alleviate that problem. It's pretty straightforward. You either decide that you are going to give people who are making minimum wage a hand in this way, or you don't. I will be voting for the majority Ought to Pass as Amended. Thank you.

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. I'll try to be a little more brief this morning than I was yesterday. I've done a lot of things in my life. One of them is President of a payroll processing company. I liked legislation like this when I ran this company. It added needless complexity to my client's daily lives. It encouraged those who were

doing their payroll themselves to look elsewhere. If you have stock in paychecks, ADP, or other providers of payroll services, you're going to like this bill. One of the things we always said about the payroll processing business is you don't have a product manager. Your product manager is the federal government and 50 state governments who seek to make payroll processing so complex that you need to outsource it and incur the expense associated with that outsourcing. I would encourage you to vote against the pending motion. Thank you.

Senator **BENNETT** of Oxford requested a Roll Call.

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

Senator **HATCH:** Thank you, Madame President, ladies and gentlemen of the Senate. Before becoming a State Legislator my husband and I owned several businesses and I was the bookkeeper. I did payroll every week. I didn't like it, but I liked to see my employees paid because they were on the low end of the scale, and they needed their money every week. I've always championed paying people on a weekly basis, and we lost that battle in 1999 when we went to a bi-weekly. A lot of small businesses still pay every week in this state. I did my homework over the weekend. My daughter works at a law office. I called her up and said, 'How do you folks do your payroll?' She said, 'We have a payroll service.' I said, 'Do me a favor and call them up and find out how much it would cost you to have it done on a weekly basis.' She called them up and they said the same as it costs now. The same information comes in every week and all they have to do is generate the checks. So I talked to a couple of friends of mine who own a restaurant in the town of Skowhegan. I said, 'How do you pay your waitresses. Do you pay them weekly?' They said, 'No, we pay them every two weeks.' I said, 'Could you pay them weekly? Would it cost you more?' They said, 'We don't think so. We use a local firm to generate our paychecks and they do all our checks, not just our payroll checks, they do it for all our supplies and so forth.' They called up and asked. They came right out and flatly told them it wouldn't cost them any more, because it would only involve a couple dozen checks. Having that in mind, I don't think that this is as big a problem as the chamber or anyone else would make you think. I think those people who are being paid minimum wage should be paid weekly. I've always thought that. I don't get paid hundreds of thousands of dollars to come down here and lobby for anybody. I am elected by the public. I think they deserve, especially those on the low end of the scale, to be paid on a weekly basis. Thank you.

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

Senator **MITCHELL:** Thank you, Madame President, ladies and gentlemen of the Senate. I've been told that the best way to get people's attention and listen to your viewpoint is to tell a story. I would like to tell you a brief story that might help to convince you why it is important for you to vote against the majority Ought to Pass and go with the minority Ought Not to Pass report.

This is dating me back, and it's going to put age on me a little bit. I'm going to tell you a story about when I worked for New England Telephone. I was a single parent with three small children. My weekly salary was very small, but I had a chance for a promotion to a management job. It meant that I had to go from a weekly salary paycheck to bi-weekly. For \$62.50 a week, I would have to change my budgeting in order to accept the challenge and the opportunity that it provided. In long range, if I looked at that picture, it would enable me to, over time, be able to better care for my three children and provide them with more. I took it upon myself to be a responsible parent and realize that I just needed to change my budgeting and go without for maybe a week or so and cut corners a little to make that sacrifice that would give me a better opportunity.

I would say to you, all of us have to assume responsibility. As much as we, in this Senate, like to smother people with protective measures, we do need to let them be responsible. By letting them be responsible and to adjust to the fact that a bi-weekly is giving them an opportunity that will provide them with the salary to provide for the needs in their lives, all they need to do is adjust that budgeting. With that, I would ask you to please not support the majority Ought to Pass and support the Ought Not to Pass. Let's vote against the majority Ought to Pass this morning. Thank you very much.

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

Senator **BLAIS:** Thank you, Madame President and fellow members of the Senate. I appreciate the remarks from the good Senator from Somerset, Senator Hatch. I own a small business. I own it right now. I wasn't going to bring this up, but sitting on the committee, when we went through testimony and a workshop on this, I decided to investigate this issue with my payroll company. This is not secondhand information, this is firsthand information. I employ about 25 people down in the Portland area. It's in a restaurant. Probably a little more than half of those people are tipped

employees. We pay them on a bi-weekly basis. I went to our payroll company and I said, 'Tell me what it would cost for us to pay those employees on a weekly basis?' The payroll company said, 'It's going to double your cost.' It's simple math. It just makes sense. If you are going to double the amount of disbursements and double the amount of checks that you are cutting, it's going to double your cost. We pay not only for the administration, we pay every time a payroll is run and we pay for every check that the payroll company cuts. Not only will it increase our costs, in my small business, like many other small businesses in this state, one spouse or the other typically is the one that is responsible for handling payroll, as we have heard from the good Senator from Somerset, Senator Hatch. My wife is the one who has that responsibility. I can tell you that every two weeks my wife stays up into the late hours of the night going through all the timecards and trying to put the payroll together. My wife, because we've had a difficult year in the restaurant business this past year, receives no compensation for the work that she does. Instead of compensating my wife, we're keeping more people employed in our restaurant so that we can provide good service to our customers. Every two weeks, I have to sit there as my wife struggles into the late hours of the night going through these timecards. Not only is it going to double our costs, it's also going to double the work that my wife has to do.

I mentioned simple math a couple of moments ago. I think we really need to look at this from a mathematics perspective, a simple math perspective. The Department of Labor tells us that there are 9,000 people that are making minimum wage or less in this state. There are 7,000 of those people who are tipped employees who are taking home cash every single day. That leaves 2,000. Of those 2,000, 54% of those people are in entry level jobs. They are age 16 to 24 years old. In other words, they are probably still living with mom and dad and it's their first job. This legislation will reverse a business impediment that we got rid of in 1999 that reaches all the way back to 1911, which would have left Maine as being just one of six states in the nation that had such a restrictive law on its books. What this legislation would do is turn this around for possible benefit of some 500 people in this state. I don't know that we have any evidence to demonstrate that those 500 people have come forward to suggest that they are under some duress because they are paid on a bi-weekly basis.

I would urge you to avoid sending yet another negative message to Maine's businesses, and join me in opposing the motion on the floor. Thank you.

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Edmonds 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 (#128)

YEAS: Senators: BRENNAN, BRYANT, CATHCART, DOUGLASS, EDMONDS, GAGNON, HATCH, ROTUNDO, STANLEY, STRIMLING, TREAT, THE PRESIDENT - BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BLAIS, BROMLEY, CARPENTER, DAMON, DAVIS, GILMAN, HALL, KNEELAND, LAFOUNTAIN, LEMONT, MARTIN, MAYO, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

ABSENT: Senator: PENDLETON

12 Senators having voted in the affirmative and 22 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **EDMONDS** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **FAILED**.

The Minority **OUGHT NOT TO PASS** Report **ACCEPTED**.

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act Concerning Retirement Benefits for State Employees"

H.P. 730 L.D. 1009

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-441)**.

Signed:

Senators:

EDMONDS of Cumberland
STANLEY of Penobscot

Representatives:

HUTTON of Bowdoinham
HATCH of Skowhegan
PATRICK of Rumford
JACKSON of Fort Kent
WATSON of Bath

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

Signed:

Senator:

BLAIS of Kennebec

Representatives:

SMITH of Van Buren
CRESSEY of Baldwin
HEIDRICH of Oxford
NUTTING of Oakland
TREADWELL of Carmel

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-441) AS AMENDED BY HOUSE AMENDMENT "A" (H-517)** thereto.

Reports **READ**.

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

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

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. This bill is an act concerning retirement benefits for state employees. It is a bill that we've seen various incarnations of over the years. As you remember, in the last year we've had a number of furlough days. State workers have been forced to give up three days of pay in our attempts, which have been successful so far, to curb the problems with the state budget. In the long run, if folks have had these furlough days where they have gotten no pay, this can have a deleterious effect on their retirement.

It isn't many people, because we assume that many folks will be retiring having this as one of their top three years of earning. However, there will be some set of people for whom this year will be one of their top years. For those people, losing this furlough day would have a negative effect on their retirement benefits. I'm urging you to join me in the majority Ought to Pass as Amended report.

I do want to talk to you a little bit about the amendment that came out of the committee so you better understand it. When the bill came before us, there was no fiscal note on it, partly because it

was in the latter end of our deliberations. This amendment provides the funding necessary so the inclusion of unpaid furlough days in the average compensation of various members will not create an unfunded liability. As you know, we are not allowed to do that. It provides for an immediate appropriation of \$7,600 to represent the employer contribution. It also requires employees who gain a higher retirement benefit as a result of the bill to make up the missed employee contribution plus interest when they retire. There was also a House amendment that basically fixed the wording in such a way that if a person got to their retirement, went through the whole process of figuring out their average final compensation and didn't need those furlough days, they didn't have to take them. It sort of made it an optional basis.

I think this is only fair. We don't want to penalize people who are retiring for the gracious thing that they all did, whether they wanted to or not, of giving up their days of pay in order to help us balance the state budget. I hope you will join me in accepting the majority Ought to Pass as Amended report. Thank you.

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

READ ONCE.

Committee Amendment "A" (H-441) **READ.**

House Amendment "A" (H-517) to Committee Amendment "A" (H-441) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-441) as Amended by House Amendment "A" (H-517) thereto, **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-441) AS AMENDED BY HOUSE AMENDMENT "A" (H-517)** thereto, in concurrence.

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

ENACTORS

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

Emergency Measure

An Act To Clarify and Update the Laws and Rules Related to Health Care

H.P. 1100 L.D. 1507
(C "A" H-515)

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

Emergency Measure

An Act To Provide Group Health Insurance Coverage to Maine Citizens Eligible for Assistance Under the Federal Trade Adjustment Assistance Reform Act of 2002

S.P. 536 L.D. 1576
(C "A" S-228)

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

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

Emergency Measure

An Act To Implement Regulatory Reforms and To Address Staffing Issues in Long-term Care Facilities

H.P. 1181 L.D. 1607
(C "A" H-525)

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

Emergency Resolve

Resolve, Regarding Legislative Review of Chapter 113: Rules and Regulations Governing the Licensing and Functioning of Assisted Housing Programs, a Major Substantive Rule of the Department of Human Services, Bureau of Elder and Adult Services

H.P. 1153 L.D. 1580
(C "A" H-514)

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.

Off Record Remarks

Acts

An Act To Preserve the Integrity of the Voting Process

H.P. 334 L.D. 426
(H "A" H-478 to C "A" H-403)

An Act To Improve the Procedure for Locating Runaway Children

H.P. 713 L.D. 956
(C "A" H-367)

An Act To Suspend Rules of the Board of Dental Examiners Regarding Permission for Public Health Supervision Status

S.P. 460 L.D. 1390
(C "A" S-130)

An Act To Improve Enforcement of the State's Natural Resource Protection, Timber Theft and Trespass Laws

H.P. 1059 L.D. 1447
(H "A" H-511 to C "A" H-456)

An Act To Amend the Laws Regarding Prisoner Participation in Public Works Projects

H.P. 1200 L.D. 1622
(H "A" H-513)

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 Amend the Membership of the Plumbers' Examining Board

S.P. 248 L.D. 710
(C "A" S-157; S "A" S-222)

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

On motion by Senator **TREAT** of Kennebec, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence. (Roll Call Ordered)

An Act To Encourage Responsible Employment Practices

H.P. 880 L.D. 1206
(C "A" H-353)

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

Resolve

Resolve, Amending the Commissioner of Administrative and Financial Services' Authorization To Convey a Portion of the Kennebec Arsenal in Augusta Pursuant to Resolve 1999, Chapter 56 and To Direct Proceeds from the Sale of the Maine State Prison Property in Thomaston

H.P. 1069 L.D. 1464
(C "A" H-502)

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

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

COMMUNICATIONS

The Following Communication:

S.P. 581

**STATE OF MAINE
OFFICE OF THE SECRETARY OF STATE
AUGUSTA, MAINE 04333-0148**

May 27, 2003

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

Dear President Daggett:

I received the enclosed letter on Friday from Knox County Clerk Virginia Lindsey, on behalf of the County Commissioners, regarding the redistricting of the Knox County Budget Committee districts.

Pursuant to 30-A M.R.S.A. section 757(1), the Commissioners must prepare a redistricting plan for the budget committee seats by June 1, 1993 and every 10 years thereafter. The Commissioners must submit the plan to the Secretary of State within 5 days of adoption, and the Secretary of State must immediately transmit the redistricting plan to the Legislature for review and enactment.

Accordingly, I am forwarding the communication from the Knox County Commissioners to you and Speaker Colwell, for consideration by the Legislature.

Please let me know if I may be of any further assistance in this matter.

Sincerely,

S/Dan A. Gwadosky
Secretary of State

READ and with accompanying papers **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT**.

Sent down for concurrence.

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

PAPERS FROM THE HOUSE

Joint Resolution

The following Joint Resolution:

H.P. 1204

**JOINT RESOLUTION MEMORIALIZING CONGRESS TO ISSUE A WAIVER
OF THE REQUIREMENTS OF THE NO CHILD LEFT BEHIND ACT
FOR MAINE PUBLIC SCHOOLS**

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

WHEREAS, on January 8, 2002, President Bush signed into law the No Child Left Behind Act of 2001, referred to in this resolution as "the Act," which applies to all states that accept federal Title I education dollars; and

WHEREAS, the State of Maine receives federal Title I dollars and is therefore subject to the Act's requirements; and

WHEREAS, the Act mandates that every public school in Maine must make adequate yearly progress toward the goal of 100% student proficiency in math, reading and language arts and science by school year 2013-2014; and

WHEREAS, the Act requires that an entire school be identified as failing to make adequate yearly progress in any school year when the school as a whole or any one of the following subgroups within that school fails to make such progress: students with learning disabilities and students with limited English proficiency; and

WHEREAS, it may be extremely difficult for the subgroup of students with disabilities to make adequate yearly progress in each of the measured areas each year, since those students are identified as belonging in that subgroup because of significant educational challenges, well above and beyond the normal challenges encountered by nondisabled students, that adversely affect their capacities to achieve proficiency in the measured areas; and

WHEREAS, it will be extremely difficult for the subgroup of students with limited English proficiency to meet the adequate yearly progress standard in the area of reading and language arts since those students are required to be tested in English after only 3 years in the public school system, which will rarely be a sufficient time for such students to become proficient in English; and

WHEREAS, failure by either the disabilities subgroup or the limited English proficiency subgroup in any given year to meet any one of the State's proficiency expectations for that year will result in identification of the school as a whole as failing to make adequate yearly progress; and

WHEREAS, the Act imposes a series of escalating consequences and financial costs on local schools and school units that fail to make adequate yearly progress for 2 or more years in a row, including offering intradistrict school choice and transportation; supplemental services, including private tutoring for eligible students; and the possibility of wholesale dismissal of teachers, paraprofessionals and administrators who are considered "relevant" to the school's failure to make adequate yearly progress; and

WHEREAS, the Act requires the State of Maine and local school units to develop additional new testing in grades 3, 5, 6 and 7, which will further limit the time that teachers and students are able to spend on achieving Maine's system of learning results; and

WHEREAS, the Act also requires that all Maine public school teachers who teach in core academic subjects meet federal "highly qualified" standards by the end of the 2005-2006 school year, with teachers new to the profession all having to pass a rigorous state test in the areas they will be teaching; and

WHEREAS, the Act also requires that all paraprofessionals and educational technicians working in programs funded by Title I must meet certification standards that are often higher than those that currently apply in Maine; and

WHEREAS, the Act imposes significant costs on local school units, teachers and paraprofessionals for the funding of staff development, certification upgrades, course work, choice-related transportation and private tutoring, as well as the unavoidable costs and dislocation that would arise in the event of mandatory school restructuring and staff dismissals; and

WHEREAS, the State of Maine has had high standards of learning in its system of learning results since 1995, long before enactment of the Act, including a comprehensive statewide assessment of student achievement through the Maine Educational Assessment and including a new system of local assessment to go into effect by the end of the 2003-2004 school year; and

WHEREAS, the State of Maine for many years has been one of the highest-ranked states in the nation in school achievement, ranking first in the nation in 1999 in the performance of its kindergarten to grade 12 system, ranking first in the nation in 1999 as the best state in which to raise a child, ranking first in the nation in 2001 in the state high school completion rate and regularly ranking among the top states in the nation in student academic performance on national testing in 4th and 8th grades; and

WHEREAS, the State of Maine has obtained its strong educational achievements through the efforts of its students, teachers and schools and its own system of learning results prior to enactment of the No Child Left Behind Act of 2001; and

WHEREAS, enactment of the Act resulted in only a \$4,600,000 increase in Title I funding for the State of Maine in 2002 over and above the 2001 level that applied before the new Act's mandates; and

WHEREAS, the congressional appropriation for Title I costs was \$3.15 billion short of the congressional authorization in 2002 and \$4.32 billion short in 2003 and a projected \$6.15 billion short in 2004, for a total shortfall of \$13.2 billion over the 3-year period; now, therefore, be it

RESOLVED: That We, your Memorialists, on behalf of the people of the State and on behalf of the State's outstanding system of public elementary and secondary school education, respectfully urge and request that the President of the United States and the Congress of the United States accommodate Maine's special circumstances by issuing a waiver of the requirements under the No Child Left Behind Act of 2001 for the State's public schools; and be it further

RESOLVED: That in the event that no such waiver is forthcoming, the United States Congress should appropriate full funding of the Act at the authorization levels called for by the Act itself; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable George W. Bush, President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives and to each Member of the Maine Congressional Delegation.

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

READ.

On motion by Senator **WOODCOCK** of Franklin, **TABLED** until Later in Today's Session, pending **ADOPTION**, in concurrence.

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Authorize the Deorganization of the Town of Centerville"
H.P. 1201 L.D. 1624

Committee on **STATE AND LOCAL GOVERNMENT** suggested and ordered printed.

Comes from the House, **READ TWICE** and **PASSED TO BE ENGROSSED**, without Reference to a Committee.

Under suspension of the rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee, 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 Allow Certain Women Recovering from Childbirth To Be Issued Temporary Handicapped Parking Permits

H.P. 766 L.D. 1049
(C "A" H-409)

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:

COMMUNICATIONS

The Following Communication: S.C. 268

**121ST LEGISLATURE
COMMITTEE ON INSURANCE AND FINANCIAL SERVICES**

May 28, 2003

The Honorable Beverly C. Daggett
President of the Senate of Maine
121st Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 9-A M.R.S.A., Section 6-103, and with Joint Rule 505 of the 121st Maine Legislature, the Joint Standing Committee on Insurance and Financial Services has had under consideration the nomination of William N. Lund of Portland, for reappointment as the Director of the Office of Consumer Credit Regulation.

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

YEAS	Senators	1	Mayo of Sagadahoc
	Representatives	8	O'Neil of Saco, Breault of Buxton, Canavan of Waterville, Perry of Calais, Snow-Mello of Poland, Vaughan of Durham, Woodbury of Yarmouth, Young of Limestone
NAYS		0	
ABSENT		4	Sen. LaFountain of York, Sen. Douglass of Androscoggin, Rep. Glynn of South Portland, Rep. Perry of Bangor

Nine members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of William N. Lund of Portland, for reappointment as the Director of the Office of Consumer Credit Regulation be confirmed.

Signed,

S/Lloyd P. LaFountain III
Senate Chair

S/Christopher P. O'Neil
House Chair

READ and ORDERED PLACED ON FILE.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **INSURANCE AND FINANCIAL SERVICES** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 121st Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#129)

YEAS: Senators: None

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

ABSENT: Senator: PENDLETON

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **William N. Lund** of Portland, for reappointment as the Director of the Office of Consumer Credit Regulation was **CONFIRMED**.

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

With reference to the action of the Senate whereby it **INSISTED** and **JOINED** in a **COMMITTEE OF CONFERENCE** on the disagreeing action of the two branches of the legislature on:

Bill "An Act To Establish a Moratorium on Genetically Engineered Plants"

H.P. 893 L.D. 1219

(S "A" S-229 to C "A" H-376)

The Chair appointed as conferees on the part of the Senate the following:

Senator **BRYANT** of Oxford

Senator **KNEELAND** of Aroostook

Senator **YOUNGBLOOD** of Penobscot

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the following Tabled and Later (5/28/03) Assigned matter:

Bill "An Act to Revise the Reimbursement by the County Jail Prisoner Support and Community Corrections Fund and To Provide Additional Support to County Jails"

S.P. 390 L.D. 1186

(C "A" S-227)

Tabled - May 28, 2003, by Senator **STRIMLING** of Cumberland

Pending - **FURTHER CONSIDERATION**

(In Senate, May 23, 2003, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-227).**)

(In House, May 27, 2003, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE.**)

On motion by Senator **STRIMLING** of Cumberland, the Senate **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE.**

Sent down for concurrence.

(See action later today.)

Senator **BENNETT** of Oxford was granted unanimous consent to address the Senate off the Record.

The Chair laid before the Senate the following Tabled and Later (5/28/03) Assigned matter:

HOUSE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Prohibit Discrimination in Housing"

S.P. 287 L.D. 892

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-193)** (6 members)

Tabled - May 28, 2003, by Senator **STRIMLING** of Cumberland

Pending - motion by Senator **WOODCOCK** of Franklin to **RECEDE** and **CONCUR** (Roll Call Ordered)

(In Senate, May 22, 2003, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-193)**.)

(In House, May 27, 2003, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.)

(In Senate, May 28, 2003, Senator **PENDLETON** of Cumberland moved to **ADHERE**.)

On motion by Senator **STRIMLING** of Cumberland, the Senate **RECEDED**.

On further motion by same Senator, Bill and accompanying papers **INDEFINITELY POSTPONED**.

The Chair laid before the Senate the following Tabled and Later (5/28/03) Assigned matter:

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Repeal the Fingerprinting Requirement for Teachers and School Employees"
H.P. 483 L.D. 653

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-481)** (5 members)

Tabled - May 28, 2003, by Senator **TREAT** of Kennebec

Pending - **ACCEPTANCE** of the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**

(In House, May 27, 2003, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 28, 2003, motion by Senator **DOUGLASS** of Androscoggin to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **FAILED**. **ACCEPTANCE** of the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**, **FAILED**. Motion by Senator **MARTIN** of Aroostook to **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence, **FAILED**.)

Senator **MITCHELL** of Penobscot requested a Roll Call.

On motion by Senator **BENNETT** of Oxford, Bill and accompanying papers **INDEFINITELY POSTPONED**.

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later (5/28/03) Assigned matter:

HOUSE REPORTS -from the Committee on **NATURAL RESOURCES** on Bill "An Act To Fund Municipal Collection of Household Hazardous Waste"

H.P. 1135 L.D. 1549

Report "A" - **Ought to Pass as Amended by Committee Amendment "A" (H-494)** (9 members)

Report "B" - **Ought to Pass as Amended by Committee Amendment "B" (H-495)** (3 members)

Report "C" - **Ought Not to Pass** (1 member)

Tabled - May 28, 2003, by Senator **DAVIS** of Piscataquis

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-494)**, in **NON-CONCURRENCE**

(In House, May 27, 2003, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-494) READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-494) AS AMENDED BY HOUSE AMENDMENT "A" (H-526)** thereto.)

(In Senate, May 28, 2003, on motion by Senator **MARTIN** of Aroostook, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-494) READ and ACCEPTED**, in concurrence. Committee Amendment "A" (H-494) **READ**.)

House Amendment "A" (H-526) to Committee Amendment "A" (H-494) **READ and ADOPTED**, in concurrence.

Committee Amendment "A" (H-494) as Amended by House Amendment "A" (H-526) thereto, **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-494) AS AMENDED BY HOUSE AMENDMENT "A" (H-526)** thereto, in concurrence.

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later (5/28/03) Assigned matter:

**Pursuant to Constitution
Public Land**

Resolve, Authorizing Certain Land Transactions by the Department of Conservation, Bureau of Parks and Lands

H.P. 1141 L.D. 1558
(C "A" H-432)

Tabled - May 28, 2003, by Senator **TREAT** of Kennebec

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

(In Senate, May 20, 2003, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-432)**, in concurrence.)

(In House, May 28, 2003, **FAILED FINAL PASSAGE**.)

In accordance with the provisions of Article IX, Section 23 of the Constitution, this requires the affirmative vote of two-thirds of the entire elected Membership of the Senate, 33 Senators having voted in the affirmative and 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**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

The Chair laid before the Senate the following Tabled and Later (5/27/03) Assigned matter:

HOUSE REPORTS - from the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Protect Consumer Privacy Rights"

H.P. 509 L.D. 692

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-218)** (6 members)

Tabled - May 27, 2003, by Senator **BROMLEY** of Cumberland

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

(In House, May 23, 2003, 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-218).**)

(In Senate, May 27, 2003, Reports **READ.**)

On motion by Senator **BROMLEY** of Cumberland, Bill and accompanying papers **COMMITTED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**, in **NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/15/03) Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act To Require the Workers' Compensation Board To Adopt Rules To Require Electronic Filing"

H.P. 268 L.D. 339

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-191)** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-192)** (5 members)

Tabled - May 15, 2003, by Senator **EDMONDS** of Cumberland

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-191)** Report, in concurrence

(In House, May 14, 2003, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-191)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-191).**)

(In Senate, May 15, 2003, Reports **READ.**)

On motion by Senator **EDMONDS** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-191)** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-191) **READ.**

On motion by Senator **EDMONDS** of Cumberland, Senate Amendment "A" (S-243) to Committee Amendment "A" (H-191) **READ.**

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

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. This bill has to do with the electronic filing of data for the Workers' Compensation Board. We've worked very diligently on it in committee. What became clear is that there needed to be an additional allocation of funds to give us the ability to contract with the Department of Labor for programming services to implement the electronic filing system. This will cost \$40,000 from the workers' compensation assessment.

The amendment also specifies that the electronic filing rulemaking required by Committee Amendment "A" (H-191), which is already attached to the bill, must be developed through the consensus based rule development process and must include certain participants. The Workers' Compensation Board is required to test the electronic filing process to ensure that it functions correctly.

Everybody was in agreement that the sooner the Workers' Compensation Board can accept things electronically the better. These have to do with rules and an appropriation to see that this actually happens. That is the gist of it and I hope you will join me.

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

Senator **BLAIS:** Thank you, Madame President and fellow members of the Senate. I am very pleased to see this amendment come forward on this piece of legislation. I was very concerned about the original bill that came forward. I am also pleased to see that a significant amount of the minority report is reflected in this amendment, as well as a change in the original allocation of some \$200,000 to pay for this to a more reasonable \$40,000. Consequently, I would like to express my support and urge you all to support the amendment that is on the floor. Thank you.

On motion by Senator **EDMONDS** of Cumberland, Senate Amendment "A" (S-243) to Committee Amendment "A" (H-191) **ADOPTED**.

Committee Amendment "A" (H-191) as Amended by Senate Amendment "A" (S-243) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-191) AS AMENDED BY SENATE AMENDMENT "A" (S-243)** thereto, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

Senate at Ease.

Senate called to order by the President.

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

An Act To Amend the Membership of the Plumbers' Examining Board
S.P. 248 L.D. 710
(C "A" S-157; S "A" S-222)

Tabled - May 29, 2003, by Senator **TREAT** of Kennebec

Pending - **ENACTMENT**, in concurrence (Roll Call Ordered)

(In Senate, May 22, 2003, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-157) AND SENATE AMENDMENT "A" (S-222)**.)

(In House, May 28, 2003, **PASSED TO BE ENACTED.**)

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#130)

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

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

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

The Chair laid before the Senate the following Tabled and Later (4/29/03) Assigned matter:

SENATE REPORTS - from the Committee on **LABOR** on Bill "An Act To Improve Collection of Information about Work-related Injuries and To Enhance Injury Prevention Efforts"
S.P. 135 L.D. 398

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-80)** (8 members)

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

Tabled - April 29, 2003, by Senator **EDMONDS** of Cumberland

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

(In Senate, April 29, 2003, Reports **READ.**)

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

Senator **BLAIS:** Thank you, Madame President and fellow members of the Senate. This piece of legislation relies on electronic filing, which we just unanimously passed with a good amendment on a good piece of legislation just a few minutes ago. My understanding is that the standards with respect to electronic filing will not even be available to the Workers' Compensation Board until fall of this year. This piece of legislation includes the electronic filing provision in it, and also provides allocation for that. The other thing it does is mandates that medical only reports also be filed electronically. Medical only reports were removed from the workers' compensation system in terms of reporting in the 1992 reforms. The reason for that was because medical only reports are simply not needed in order to settle workers' compensation claims. The only reports that are needed are lost time reports.

The other thing that this legislation does is to create a study committee to take this medical only report information. I'm not sure exactly what the purpose of the study committee is, because the Department of Labor also already has several groups that deal with this type of information. They include the Commission on Safety and Health in the Maine Workplace, the Board of Occupational Safety and Health, and the Maine Occupational Research Agenda Steering Committee.

I understand that there is a Senate amendment that is going to be brought forward that would lessen some of the most egregious aspects of this bill. One of the other problems with implementing these medical only reports is that they increase reporting from about 17,000 reports, which are the lost time reports, to more than 80,000 reports. This would pose an unfair and onerous burden on Maine's insurers and Maine's employers. I think that something that has the potential to

create such an onerous burden on our employers, especially something that is coming forward in the context of a Senate amendment, is something that the committee should discuss.

Same Senator moved the Bill and accompanying papers be **COMMITTED** to the Committee on **LABOR**.

Same Senator requested a Roll Call.

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

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. I want to call your attention to the reason I put in this piece of legislation. It is because, having been on the Labor Committee now for three years, it was very clear to me that the need for data is profound. Much of the discussions we had in the last legislature around workers' compensation boiled down to questions around data. It made sense to me that we should ask for more data, and that we ask that it be given to us in the form of electronic filing.

As you know, we have just passed a bill regarding electronic filing, which I am pleased about. This bill adds, as the good Senator from Kennebec, Senator Blais, has mentioned, medical only reports. Businesses already have medical only reports. They already report them. They already create them. They are not yet required to submit them. This seems odd to me. Anyway, this would require that they be filed with the Workers' Compensation Board. This group, which has to do with occupational research around safety, would get this information, begin to process it, and help us figure out where we are having problems around safety and what we can do to make that better. This is not meant to penalize anybody. This is meant to assist companies and workers to make sure they have a safer place to work.

I do hope you will go ahead and pass the majority report. I do have an amendment that will address some of the concerns that have been raised. I would appreciate your support so we can go on to hear about the amendment. Thank you.

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

Senator **BLAIS:** Thank you, Madame President, ladies and gentlemen of the Senate. I appreciate the remarks from the good Senator from Cumberland, Senator Edmonds, in regards to data. I would like to reiterate that this provision was removed as part of the 1992 reforms because of the enormous cost associated with doing medical only reports, which simply are not needed in order to satisfy the requirement of the workers' compensation system, which is a process to pay people for lost time.

In regards to job safety, I will also reiterate that the Department of Labor has the Commission on Safety and Health in the Maine Workplace, the Board of Occupational Safety and Health, and the Maine Occupational Research Agenda Steering Committee. We already have three organizations that deal with safety in the workplace. I don't know why we need to add another organization to that list.

In regards to the filings, I think we all agree that electronic filing is an appropriate direction to go to. My hope is that by implementing electronic filing, we will see system efficiencies. If we're trying to implement electronic filing to realize system efficiencies and then we go and increase the number of filings by five-fold, we are going to eat up those efficiencies as soon as we create them with electronic filing. The other thing about this is that the electronic filing that we are talking about applies for insurers to the system. The electronic filing does not apply to the employers themselves.

THE PRESIDENT: The chair would interrupt debate just to remind members that the question before the Senate is whether to commit this bill to the Committee on Labor. Debate should take place around that. The Senator may proceed.

Senator **BLAIS:** Thank you, Madame President. I'll make my remarks very concise and to the point. Clearly there is enough question and controversy around this issue that it deserves to be sent back to the committee to decide this. We shouldn't be trying to amend something that has such a potential impact on Maine employers before we even have the standards in place. I would hope that you would support my motion to recommit this back to the committee. Thank you.

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Blais to Commit the Bill and accompanying papers to the Committee on Labor. 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 (#131)

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

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

17 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion by Senator **BLAIS** of Kennebec to **COMMIT** the Bill and accompanying papers to the Committee on **LABOR, FAILED.**

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Edmonds 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 (#132)

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

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

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **EDMONDS** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED.**

READ ONCE.

Committee Amendment "A" (S-80) **READ** and **ADOPTED.**

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

On motion by Senator **EDMONDS** of Cumberland, Senate Amendment "A" (S-239) **READ.**

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

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. In discussions about this bill, it became clear that some pieces were just too hard for people to swallow. What I have done is remove the provisions in the bill regarding reports of work-related

injuries to the Workers' Compensation Board. Instead, this amendment clarifies that employers are required to file the report with the board only if the major substantive rulemaking process has been completed. It also removes the delayed effective date. In other words, people presently have to keep a copy of the medical only, as it is called, but they are not required to file it. This will say, and these are the only words added in the law, the employer is also required to submit the form to the board if the board has finally adopted a major substantive rule pursuant to all the various and sundry laws. What this means is when they, they being the Workers' Compensation Board, have the capacity to receive these multitudes of reports, which I agree with the good Senator from Kennebec, Senator Blais, will be a large amount, we want them. That is basically what this says. I hope you will join me. I think this is a good thing. I know there is disagreement, but there is particular data that is needed to perform a better analysis of how people are being injured and what could help them can be made. We want that data so we can make better recommendations. I will appreciate your support of this amendment. Thank you.

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

Senator **BLAIS:** Thank you, Madame President and fellow members of the Senate. This amendment doesn't just apply to insurers and the Workers' Compensation Board in terms of moving the medical only reports from the insurers to the Workers' Compensation Board. I have already mentioned that the information is not necessary in order to settle workers' compensation lost time claims. It will have a significant impact on Maine's employers, because they don't have the ability to file these claims electronically. They will continue to have to file these claims by paper, and to move those claims to their insurer. This means that those employers are going to have to file five times more paperwork than they have in the past, and move that paperwork to their insurers. I don't know about you, but I heard testimony earlier today that there are people with some small business experience over there. The few medical problems, small non-loss time medical reports problems, that we've had in my business, we've had one in the last year. If employers have to increase the number of reports that they are sending, it's going to be onerous burden on them.

Secondly, as I said, this information has no value to the Workers' Compensation System itself. The point of this study commission is to use this data to look at job safety. Once again, I'd like to point out that the Department of Labor already has three agencies that look at this. If you want to increase the burden on employers and you want to add yet one more agency to the Department of Labor in the form of this study commission, then go ahead and support this amendment. I will not be supporting the amendment and I would urge you to join me in that. Thank you very much.

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

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. I want to remind you that this bill basically says we're making major substantive rules that, as you know, means that they come back to the Committee on Labor. If they come back and are not what we want, we will have a chance to amend them. I'm only asking that we get that opportunity. Thank you.

On motion by Senator **EDMONDS** of Cumberland, Senate Amendment "A" (S-239) **READ** and **ADOPTED**.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#133)

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

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

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-80) AND SENATE AMENDMENT "A" (S-239)**.

Sent down 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 **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Amend the Animal Welfare Laws"

S.P. 520 L.D. 1545

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-195)** (12 members)

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

In Senate, May 22, 2003, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Comes from the House, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-195) AS AMENDED BY HOUSE AMENDMENT "A" (H-533)** thereto, in **NON-CONCURRENCE**.

Senator **BRYANT** of Oxford moved the Senate **RECEDE** and **CONCUR**.

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

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

Senator **SHOREY:** May I pose a question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **SHOREY:** Thank you. Is this the bill that increases the fees on dog licenses?

THE PRESIDENT: The Senator from Washington, Senator Shorey poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Oxford, Senator Bryant.

Senator **BRYANT:** Thank you, Madame President. In response to the good Senator from Washington, Senator Shorey, it does increase some fees for dog licenses. It also increases other small fees for kennels. What this bill does, since we saw it last time, is to move the fee up \$2. There was some concern in the Senate that the bill raised dog fees too high. This amendment moves it down to \$6. What the amendment allows us to do for the State of Maine is to at least have a spayed and neutering program that works for animal welfare. It moves the animal welfare system forward in the State of Maine. Over the last three or four years, animal welfare, through the Agriculture Department of the State of Maine, has been having numerous problems with inadequate funding. This bill would allow us to move forward, and make sure that that animal welfare in the State of Maine is taken care of. I would appreciate your vote for the pending motion. Thank you.

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

Senator **BENNETT:** Thank you, Madame President and fellow members of the Senate. In reviewing this amendment, one of the fundamental problems with the bill, as it came out of committee, is that it increased extraordinarily the fees for licensing a dog in this state. I will remind the Senate that these fees are already collected very inadequately. As I understand it, there are only

about 47% of dogs in this state that are licensed in accordance with the law. The problem is that we have this one revenue stream, which is not the only revenue stream, which is inordinately and disproportionately relied upon to fund these worthwhile programs. I do not deny the need for better animal welfare. The problem is one of compliance. I do not believe that this revenue, that has been projected to be received under this amendment, is going to be received under this amendment. Regrettably, what we should do, in my view, is to fix this fundamental problem in this law, in this proposal, which relies on one source of revenue.

I also understand that the committee looked at this question. Every time they came up with a new and thoughtful idea, some special interest group presented the committee with a good reason to vote against it. It seems to me that broadening the base of revenue for this activity will actually be better public policy, and will actually encourage a more robust stream of revenue going forward. This could involve increased reliance on pet food revenue or rabies vaccinations, which not only capture dogs but also cats and other animals as well. I think that we should be looking at those alternatives.

I would prefer not to see this motion prevail. In fact, I'd prefer to see a recede motion, which would then allow us to adjust the bill accordingly, or to send it to committee with instructions to do so. However, I will defer to others on the committee to see if they want to take up that glove from the ground and work on this bill some more. I think it would be good public policy and it would be good for animal welfare if we do so. Thank you, Madame President.

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

Senator **SAWYER:** Thank you, Madame President, ladies and gentlemen of the Senate. There is little I can disagree with in the comments made by the Senator from Oxford, Senator Bennett. There is, however, with one exception. In this particular case, I do have a dog. Much of the 12 pages listed on the website covers the recommendations of the so-called red book or red report, dealing with a broad range of animal rights issues, which I believe are appropriate. While I concur that it seems too bad that dog owners will pick up an inappropriate portion of this, I would certainly hope that we not throw the baby out with the bath water and proceed to pass the bill. Thank you.

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

Senator **YOUNGBLOOD:** Thank you, Madame President, ladies and gentlemen of the Senate. I voted in opposition to this bill when it was before us a few days ago because of the high fees, which were going to \$15. This amendment reduces them to \$10. Yes, that is an increase over what they are today, but as the Senator from Penobscot, Senator Sawyer, just indicated, there a number of items in this bill that were moved from other proposed legislation. These items include the so-called red book such as the training of animal control officers, the handling of items such as dogs or pets that are left at animal shelters and how they are to deal with those, that the committee heard. This is, I believe, an important piece of legislation. I believe that \$10 is palatable to dog owners. I would strongly urge your support of this legislation. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Oxford, Senator Bryant 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 (#134)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CARPENTER, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, GILMAN, HALL, HATCH, KNEELAND, LAFOUNTAIN, MARTIN, MAYO, MITCHELL, PENDLETON, ROTUNDO, SAVAGE, SAWYER, STANLEY, STRIMLING, TREAT, TURNER, WESTON, YOUNGBLOOD, THE PRESIDENT - BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BLAIS, DAVIS, LEMONT, NASS, SHOREY, WOODCOCK

28 Senators having voted in the affirmative and 7 Senators having voted in the negative, the motion by Senator **BRYANT** of Oxford to **RECEDE** and **CONCUR**, **PREVAILED**.

Senate at Ease.

Senate called to order by the President.

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

Off Record Remarks

Senator **DAVIS** of Piscataquis was granted unanimous consent to address the Senate off the Record.

RECESSED until 3:30 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:

ENACTORS

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

Emergency Measure

An Act To Amend the Life Safety Requirements for Residential Care Facilities

S.P. 418 L.D. 1287

(C "A" S-192; S "A" S-238)

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.

Emergency Measure

An Act to Amend the Charter of the New Portland Water District

H.P. 1199 L.D. 1620

(C "A" H-530)

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.

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

ENACTORS

Comes from the House, **FAILED ENACTMENT**.

On motion by Senator **EDMONDS** of Cumberland, Bill and accompanying papers
INDEFINITELY POSTPONED.

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 **LABOR** on Bill "An Act To Assist Seasonal Workers with Workers' Compensation"

H.P. 992 L.D. 1350

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-174)**.

Signed:

Senators:

EDMONDS of Cumberland
STANLEY of Penobscot

Representatives:

SMITH of Van Buren
HUTTON of Bowdoinham
HATCH of Skowhegan
PATRICK of Rumford
JACKSON of Fort Kent
WATSON of Bath

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

Signed:

Senator:

BLAIS of Kennebec

Representatives:

CRESSEY of Baldwin
HEIDRICH of Oxford
NUTTING of Oakland
TREADWELL of Carmel

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

Reports **READ**.

On motion by Senator **EDMONDS** of Cumberland, Bill and accompanying papers
INDEFINITELY POSTPONED.

ORDERS OF THE DAY

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

JOINT RESOLUTION - relative to Memorializing Congress to Issue a Waiver of the Requirements of the No Child Left Behind Act for Maine Public Schools.

H.P. 1204

Tabled - May 29, 2003, by Senator **WOODCOCK** of Franklin

Pending - **ADOPTION**, in concurrence

(In House, May 29, 2003, **READ** and **ADOPTED**.)

(In Senate, May 29, 2003, **READ**.)

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

Senator **MITCHELL:** Thank you, Madame President, ladies and gentlemen of the Senate. I rise to explain to you a little bit of the information that we have been covering in the Education Committee. Yesterday the Commissioner of Education presented us with a Desktop Reference to the No Child Left Behind law. Currently, as we speak, she is in Washington negotiating on different items in this particular field and in this program, whereby we will need an exemption. We do need parts of the No Child Left Behind law. There are funding mechanisms that, as the money becomes available, would be essential for us in Maine to receive, in order to have the assistance, especially with the number of schools whose numbers are going to be increasing. Currently, there is no money. If it does become available, we need to be a recipient to help the schools that are failing. We need to have the money to assist them in meeting the standards. The Commissioner is negotiating some of the standards we are working with through the learning results, and is being quite successful with that. I feel that this resolution is a little too soon, because we are currently in a negotiating field. We do need the funding from parts of this program. We don't want to be exempted, and not be allowed the funding necessary to help us meet the goals that we want to achieve that corresponds with our learning standards. I would ask you to vote against this at this time.

Same Senator requested a Roll Call.

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

Senator **DOUGLASS:** Madame President, men and women of the Senate. This resolution asks the federal government to waive certain portions of the No Child Left Behind law. We need to go back to square one. The intent of that law is to improve education. That is a laudable intent. However, the way it goes about it is to establish a framework in which each state must determine that certain schools are failing schools. That is a premise we believe doesn't apply here in Maine. We have been first in the nation in being a good place to raise children. We've also placed first in the nation in our 4th and 8th grades in math. I'm not sure if I've memorized all the statistics, but in 1996, 1998, and 2000 our students in the 4th and 8th grades took a National Education Association goals test that shows how we are fairing with regards to the rest of the nation. Our situation here in Maine is that we deliver a big bang for the buck in education. We are in the top ten consistently in math, reading, and science, which is where they are testing nationally. It's our belief, those of us who signed onto this memorialization, that we should be exempted. The premise of the No Child Left Behind law requiring Maine to identify some of its schools as failing just doesn't work.

The law is somewhat configured to address the issue of urban schools that are not performing at the levels of Maine's schools. Let me put it to you this way. If we were to have a bell curve in the nation, Maine is at the top. The way this law is configured, it requires each state to make a bell curve, and then determine which schools are at the bottom of this curve that applies to their state. We believe this is the wrong way to go about it for Maine. We are at the top of the bell curve by all those testing measures. We've had the Maine Education Assessment test for a long time. We've adopted learning results. We're way ahead of the curve.

What this does is request a waiver. It may not do a lot, but with that waiver we then are able to get the funding that comes from the federal government of about 6% of our education costs at the state level. I believe that is a worthy goal. This is not a memorial that is critical of the bill in its entirety, but only as it applies to Maine. We have done well, and we're proud of that. I believe we should stand up and shout to the rooftops that we have been number one. I forgot to tell you that we've also been second in the world only to Singapore. I think it was our 8th grade math students under 'TIMS', which I think stands for Third International Mathematical Study. It's a measurement of math skills. We also placed 7th in the world. I believe that was the 8th graders as well, in 1996 in science. This was among 41 nations. Let's send this to Congress. Let's crow about the good things

that we have done. We can improve, but not by calling some of our schools failing schools. I urge you to vote in favor.

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

Senator **WESTON:** Thank you, Madame President, men and women of the Senate. I'm a bit perplexed. I had the privilege of sitting on the Education Committee for four years. One of my big problems with learning results was that we said all children will attain the highest level of learning. All children, with no one being exempted. We set a high standard by changing our MEA tests. If you were to add those who did not meet them, or only partially met them, 75% of our kids failed the MEAs. That is the standard that we chose, that we held our high schools and our elementary schools accountable for. I thought that was pretty high. I was very concerned because we did have failing schools. Again, 75% did not meet those standards. We were going to have failing schools under our learning results. This was done by the very people in our own state. When I asked what was going to happen to the failing schools, I was told that they were not sure, but a team would move in and work with that school. I wasn't sure how to picture this team. I actually asked then Commissioner Albanese if this was a little Gestapo group that was going to take over, and what kind of pressure they would apply. Were they prepared to send teams into every school that did not meet the measure?

The reason I'm perplexed is that the testimony you've heard is absolutely correct. Nationally, Maine does very well. Compare that to how we do on MEAs, and it is a huge contrast. How many years have we had learning results where we say we're going to raise the bar, but we couldn't meet our own expectations? Now we are being told to develop our own standards, but we're going to ask for a waiver because we can't possibly meet them? I am perplexed. We have an opportunity here to get some federal money that was unknown when we were working with learning results four years ago. Then there was no offer of additional federal money. Now we have it. We have an opportunity to set our own standards. We have a chance to redo the MEAs. We have a chance to make up some new tests. We are going to ask for a waiver? We're going to say that we can't possibly meet this test after four years of saying that all of our students would attain the highest level of learning? I simply don't understand this.

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

Senator **ROTUNDO:** Madame President, men and women of the Senate. We are very fortunate in Maine that we do have very high standards through the Maine learning results. As a result, we don't need additional standards imposed upon us by the federal government, nor do we need an additional unfunded mandate. If you think that this is not an issue that we need to raise our voices in connection with, I would encourage you to go back to your communities and talk to your school boards and teachers about the financial burdens that they are already starting to assume as a result of this unfunded mandate. We don't need it here in Maine. We're doing very well on our own. I would urge you to vote in favor of this resolution so we can let our representatives in Washington know how we feel in this state. Thank you.

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

Senator **WOODCOCK:** Thank you, Madame President, ladies and gentlemen of the Senate. I'm not as much perplexed as I am skeptical. I wish this were a resolution that addressed education. I think it addresses politics more than education. I think it is a subject we have visited previously. I'm not certain about the figures within the resolution. It is my understanding that there is funding available for Title 1. I'm not really perplexed. I remain skeptical of our continued attempts to politicize the resolution process. It is unnecessary. It's uncalled for. Thank you.

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

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. I have to confess, having been involved in the development of this resolution, that I am very troubled by the implication that this was somehow a partisan measure. We worked very hard to make this bi-partisan in nature. In fact, the action that took place in the other chamber attests to the work that we did to develop this in a bi-partisan way.

Again, I would simply ask you to think about your own districts, your own school committees, and your own teachers. They aren't thinking about partisan politics. They are thinking about the difficulties that they are having with dealing with this mandate and the financial stress that is occurring in communities as a result of this mandate.

Please think of them and join me in supporting this resolution. Thank you.

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

Senator **BLAIS:** Thank you, Madame President, men and women of the Senate. Being new here, I don't have some of the historical perspective that some of the others do in this body. May I pose a question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **BLAIS:** I believe I heard that the issue in this Joint Resolution is an unfunded mandate. My question is, can someone tell me how much the state allocated for the state's learning results program? Thank you.

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

Senator **MITCHELL:** Thank you, Madame President. My light was on before, but it wasn't to acknowledge the good Senator from Kennebec, Senator Blais's question. What I wanted to provide you with was the facts. I do not have the exact dollar figure on what the learning results are costing us. The fact is that some of it is unfunded. We are making sure the funding that we are working with is on the learning results. We need to make sure, on the bill that you will be working, the essential programs and services is the funding mechanism, and that the standards will work with the learning results, and hopefully, provide the funding. However, the good Senator from Androscoggin, Senator Douglass, the chair of the Education Committee, is absolutely accurate with her statements regarding where we stand in Maine with education. However, what I point out to you is that as we increase the number of failing schools there is a \$1 million gap between the dollars available, and what we need to implement assistance to those failing schools. We don't want to close the door on any federal dollars that would be coming to us as the result of No Child Left Behind. We want to make certain that we derive the benefit. Because our Commissioner is currently working with Washington on the areas we want to be exempted on, it seems to me a resolution is not necessary at this particular time. We don't want to shut the door on any monies coming in, and we want to give our Commissioner the opportunity to resolve these issues and exempt us without rocking the boat. Let's sit tight and see what happens. We have in motion what needs to happen on the exemption items that learning results is going to cover, and where we are excelling. We do need additional Title 1 monies, because the monies we are receiving fall short. Further, we need to address the failing schools, as the good Senator from Waldo, Senator Weston, explained, that we need to bring up to the bar. Let's not make a mistake and not receive those federal dollars due to us. These could be used to meet that bar, and to make certain that every child in this state does receive equal education with programs that we currently have in progress.

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

Senator **BRENNAN:** Thank you, Madame President, men and women of the Senate. I just want to respond briefly to the question. When the learning results were passed in 1996, it was determined that it was not a mandate and no specific allocation was required. It was felt that learning results could be achieved with existing resources. There were three areas that were exempt from that provision. Those were career development, foreign languages, and visual and performing arts. However, I believe there was initially \$1 million, but it is now \$2 million a year that is allocated for career and staff development to achieve the learning results.

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

Senator **DOUGLASS:** Madame President, men and women of the Senate. I rise to ask that you consider that this is a requirement that the federal government is asking of us. It's asking us to test all children in grades 3 through 8. We currently test in grade 4 and 8, so we are covered. We test in grade 11. That is another one that is required. This is about the additional testing that will be required at the local level, that I believe is unnecessary. It is also about the idea that if you are doing 'A' work, you've got to look at whether you've a 'B' in any class, and consider that a failure. That is really the dynamic of this thing. To compare Maine, for instance, to Alabama, which is what the former Commissioner did say, in terms of its achievements, just isn't right. Alabama is coming up as having no failing schools, because they are setting a low bar on their tests. We are taking this

legislation at its word. At least our educators are. We think that we are doing such a good job that we have the right, and indeed, the duty to ask for waiver so we can continue to receive our Title 1 funds, and the other funds that come to us through this act and from the federal government, because we deserve to be exempted.

The Senator from Waldo, Senator Weston, indicated that we were failing on some of our science MEAs. As a parent, I am aware of some of that. I do not agree that we have any failing students. I think that we set the bar so high that some of the students who would be doing college work barely got into the level that meets the standards. I know this from personal experience. I think, as a member of the Education Committee, that we need to look at those. I do realize that these were standards that were developed locally, by those who were involved in science and math. That is great, but sometimes they think by making it a little harder it will prove how good we are. I have some issues with what our current MEA tests are doing with regard to those recent, and they are recent, changes in our laws pertaining to whether we meet the standards that every child should achieve upon graduation. I think they are asking for college level work. The reason I say this is that I've had a student with seven AP courses who barely reached the standards and has Sophomore standing at a college.

I have some real issues with what we did in terms of setting the bar too high. I don't think we should take that as an endorsement of the idea that we should label any school in Maine as failing. What we should do is look at our success. We should look at the rest of the nation. The rest of the nation does need help. I'm supportive of that. We should think of our students who would need to take these exams, and would not be in the classroom for the other important work that we think is a better measure of success. We should also think of the teachers who have to administer the test, and thereby lose the time that they could be in the classroom teaching. This is a waiver that requests the federal government to look at us and see how well we are doing.

Many of you may have heard comments from teachers in your districts about how the MEAs take up extra time and really aren't worth it. I know I have. Nevertheless, I think they have taught us a lot about how to teach writing to young students. I know I've seen that in my own case with my own children. They have set a measure that I think that is sufficient for Maine. They take a week to do these tests. They take several hours every day. In fact, the kids are so tired that they come home and go right to bed. They go right to bed for that entire week. If we don't ask for this waiver, we're asking them to do that every year. I don't think that is right for our students. I don't think that is right for our schools. This was not meant to be partisan. I hope you'll vote in favor.

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

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. The good Senator from Androscoggin, Senator Douglass, talks about some of the turmoil that has gone on with respect to learning results. I think we see that in all of our school systems and all of our SADs.

I just read the last whereas on the bottom of this resolution and the first whereas on the second page. It suggests to us, or to me at least, that we're not interested in having our teachers meet the highly qualified federal standards by 2005 -2006, and that we don't want those new to the profession to pass rigorous tests. That would concern me.

Secondly, on the second page it also talks about how we are concerned about paraprofessionals and educational technicians funded by Title 1 meeting certification standards that are often higher than those that currently apply in Maine. That does seem to be in conflict with what I thought we were trying to do with our system. We want to have the highest possible standards.

I really don't know what has prompted the resolution. I certainly would take the good Senator from Androscoggin, Senator Rotundo, at her word, that she has made an effort to make this bi-partisan. We would like to have all of our resolutions clearly bi-partisan. I do wonder if this is the best mechanism to communicate with the federal government about our concerns. I know that when Commissioner Albanese was running our education department there was vigorous discussion with the federals with respect to how Maine learning results and No Child Left Behind somehow meshed together. I think there was some discussion around possible exemptions. I would think we'd be far better served using continuing dialogue between our executive for education in Maine with the executive at the federal level. Then possibly something can be done via the Governor with the Executive Branch, rather than this mechanism. This may look good tomorrow in the press. I'm not sure it's really going to accomplish a whole heck of a lot. Frankly, I'd prefer to use another mechanism. Thank you very much.

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

Senator **BROMLEY**: Thank you, Madame President, men and women of the Senate. Earlier today the Senator from Androscoggin, Senator Rotundo, and I met with a staff person from Congressman Michaud's office. We were sharing our concerns about this issue. They let us know they were also concerned. In fact, they are so concerned that there had been a conference call with the entire delegation, all our of Senators and Representatives. Our Congressional delegation is assured that Maine standards are, in fact, higher than the standards that are to be imposed upon us, and that funds are held hostage for that lower standard. We feel it is important to empower our entire Congressional delegation with this information. They are concerned that the peer review group who looked at our learning results, do not understand it. In fact, the group itself said they are not sure they understand what the learning results really mean. They have asked for a couple of months to see if, indeed, what we say is true. They asked for June or maybe August, at the latest, to review this. We want to help empower our entire delegation. To have them understand how important it is for the U.S. Department of Education to understand this issue so that they can, in fact, do the right thing. I urge you to support this resolution to help our entire delegation advocate for our state.

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

Senator **MITCHELL**: Thank you, Madame President, ladies and gentlemen of the Senate. A question was asked earlier about the allocations for the learning results. In looking at the figures, on the No Child Left Behind Act of 2001, the 2002 actual dollars was \$79 million. There was an increase of 8.44% in 2003 that brought us to \$86 million. Approximately \$14 million is going to the districts from teacher quality state grants. Yes, there is a shortage right now with the implementation from special education and other programs totaling \$31 million. There are programs whose guidelines we have already met, and are being negotiated on by the Commissioner in Washington. We have already met the guidelines regarding developing and implementing annual assessments in reading, language, arts, and math in grades 3 through 8, and at least once in grades 10 through 12 by 2005 and 2006. These are the types of things that we're negotiating an exemption from. Implementing standards in science by 2005 and 2006, and assessment in science by grades 7 and 8, those guidelines have been met. We do need the multiply measures, since they are very important. That is something the Commissioner wants to make sure that we also derive the benefit from.

Once again, I would say to you that because we want to be on the front burner with this, we do need to work with our representatives in Washington, and so does our Commissioner. We need to work together as a team. We can do that without upsetting the apple cart, so to speak, by putting through an amendment that is not specific, but shows that we want to be exempt from the entitled program when, in fact, we don't. We only want to be exempt from certain measures that we have already met. We do still need the additional monies coming in the door.

I would ask you to please vote against the pending motion.

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

Senator **MARTIN**: Thank you, Madame President and members of the Senate. I'm not sure who drafted this resolution, but it appears that some now perceive it to be something of a partisan nature. I don't view it that way. I'll tell you why. I happen to be a member of the school board in a school district that has implemented, fully implemented, learning results. We happen to have enough money to follow through with some of the requirements of the Maine Department of Education. Frankly, that is not true with many school districts in this state. Because of the low number of students that they might have at the high school level, they simply are not in a position to start spending the money that needs to be spent. As a matter of fact, board members are actually required to sit there and go through the learning results so that, as they get implemented, we actually know what it is we are implementing. This is an interesting process.

In the last six months, this board, of which I am a member, has also been dealing with the federal act of No Child Left Behind. The one thing that struck me more than any other was the fact that under this act Texas, for example, will actually be able to meet the standard and Maine will not. Yet, close to 50% of the students in Texas don't even graduate from high school. Maine has a 98% graduation rate. I can go on to illustrate the difference. This act was drafted in such a way at the federal level that it benefits those at the lower end from doing anything in elementary or secondary education. The states that we will be competing with for federal money will be Alabama, Mississippi, Texas, and Louisiana. If that is what we want to measure our students, then I think all of you, in this body, ought to read the federal law. When you are done, I guarantee you that you will understand what I am saying. This bill, in my opinion, was a disaster. It's drafted to benefit, financially, those who are not doing their job at the state level. I could talk more about that, but I

urge you to go look at it. I guarantee, you'll be as shocked, as I was. The school board that I sit with, comprised of both Democrats and Republicans, were flabbergasted. This is not partisan in any shape or form. Clearly it was drafted, not on a partisan basis at the federal level, for those states that do nothing or little for education.

THE PRESIDENT: The pending question before the Senate is Adoption. 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 (#136)

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

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

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, **ADOPTED**, in concurrence.

Senator **PENDLETON** of Cumberland requested and received leave of the Senate for members and staff to remove their jackets for the remainder of this Session.

Senator **BENNETT** of Oxford was granted unanimous consent to address the Senate on the Record.

Senator **BENNETT**: Thank you, Madame President, and fellow members of the Senate. It's a little unconventional for me to rise in the middle of our proceedings and ask for this, but I couldn't help but notice during the previous debate, as lengthy as it was, that some members' eyes were moved to items on their desk. One of those items is a book that had been distributed by Senator Pendleton of Cumberland and myself.

Forgive a son's pride in his father's work, but this book was the brainchild of my father, Dean Bennett, as well as Phyllis Austin and Robert Kimber. As you can see, it is called On Wilderness, Voices from Maine.

The word 'wilderness' uttered in this building obviously comes somewhat charged with political overtones. I can assure you that the use of the word 'wilderness' is deliberate in this book. This book has been given to each of us to help stimulate our own thinking, as public policy makers and as stewards of Maine's future. I recommend it for your reading today and over the weekend. Thank you.

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 **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Restrict Fingerprinting of Educational Personnel to New Hires"

H.P. 667 L.D. 890

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-520)** (9 members)

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

In House, May 28, 2003, 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-520)**.

In Senate, May 28, 2003, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

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

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

Senator **MITCHELL** of Penobscot requested a Roll Call.

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

Senator **BRENNAN:** Thank you, Madame President, men and women of the Senate. I hope that you will vote against the pending motion so we can finally put this issue behind us and move on to other very important issues that are facing this legislative body. Thank you.

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

Senator **HALL:** Thank you, Madame President, men and women of the Senate. I don't like fingerprinting. I also don't like debating fingerprinting. I don't intend to do so at great length. I do want to say a brief word to those of my colleagues whose tender consciences did not allow them to vote for this bill yesterday, because this bill clearly does permit fingerprinting for all new hires. I would urge you to consider that a half a loaf is better than nothing. If you want to be on record here today in opposition to any form of fingerprinting, I'm afraid this is the best that we can do. I would urge those of you who are opposed to fingerprinting in its entirety to join me in supporting the recede and concur motion. Thank you.

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

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

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

THE PRESIDENT: The Senator may pose his question.

Senator **TURNER:** If this particular piece of legislation was to become law, what happens to the teachers currently in the system that have not yet been fingerprinted? It is my understanding that approximately 80% of our school personnel have been fingerprinted to date, leaving 1 in 5 yet uncovered. Is there a provision in this legislation that once we have done the entire inventory, we would then only go to new hires? Could someone explain to me how this would work? Thank you, Madame President.

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

Senator **DOUGLASS:** Thank you, Madame President. I believe this bill uses the date of August 15, 2003 as the date on which new hires would be required to be fingerprinted. That is anyone applying for a certificate or to be approved to teach or do other work in a school. What the bill also does is it effectively repeals fingerprinting at that point. Because I don't believe we have an emergency enactor on the bill, there is also the question of when we adjourn in 90 days. It leaves pending or frees those people who haven't been fingerprinted from that. It addresses those individuals who have not yet been fingerprinted by effectively repealing the fingerprinting bill other than for new hires or newly certificated or approved school personnel.

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

Senator **MITCHELL**: Thank you, Madame President, ladies and gentlemen of the Senate. I would urge you to vote against the recede and concur motion. To add to the good Senator from Androscoggin, Senator Douglass's answer to the question posed by the good Senator from Cumberland, Senator Turner, it would leave approximately 15% to 20% of the teachers not fingerprinted. It also would eliminate or remove the database that we currently have. By removing that database, we are no longer eligible to obtain any fingerprinting information from the national FBI records for anyone coming into this state. It would mean fingerprinting would be done within the current state, and we would have to go to each individual state to obtain those. This would be a costly item, but we would no longer have access to those FBI files. If you missed yesterday's testimony given by the good Senator from Cumberland, Senator Brennan, it was said that we would be the first state in this nation to repeal part of a fingerprinting law that had been put into effect. The fact that it would be the new hires only sets a precedent. We already fingerprinted 80% of the teachers in this state. You are currently going to lift the bar and not allow the fingerprinting or mandate the fingerprinting of the remaining 20%. This would mean that anyone who had been fingerprinted in this database would be removed. If they had been charged with a crime of child abuse or was a pedophile, they could go anywhere in the United States for rehire. Their record would not be there. I would encourage you to please vote against this current motion so we can go on and move to adhere. Thank you very much.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Douglass 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 (#137)

YEAS: Senators: **BROMLEY, BRYANT, CATHCART, DAMON, DAVIS, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, KNEELAND, MAYO, NASS, PENDLETON, SAVAGE, STRIMLING, TREAT, WOODCOCK, THE PRESIDENT - BEVERLY C. DAGGETT**

NAYS: Senators: **BENNETT, BLAIS, BRENNAN, CARPENTER, GILMAN, LAFOUNTAIN, LEMONT, MARTIN, MITCHELL, ROTUNDO, SAWYER, SHOREY, STANLEY, TURNER, WESTON, YOUNGBLOOD**

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **DOUGLASS** of Androscoggin to **RECEDE** and **CONCUR, PREVAILED.**

Off Record Remarks

ORDERS OF THE DAY

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

HOUSE REPORT - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Authorize the Department of Audit To Perform Other Audits and Reviews"
H.P. 1048 L.D. 1429

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-369)**

Tabled - May 16, 2003, by Senator **GAGNON** of Kennebec

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

(In House, May 15, 2003, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-369).**)

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

Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-369) **READ** and **ADOPTED**, in concurrence.

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

On motion by Senator **ROTUNDO** of Androscoggin, Senate Amendment "B" (S-246) **READ.**

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

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. This amendment requires the state auditor to report to the Appropriations Committee, the State and Local Government Committee, and appropriate legislative committees of oversight within 60 days of the findings if significant accounting discrepancies are found. The auditor must also schedule a meeting with each oversight committee by September 15th of every year to review significant findings in the audit report that pertains to that particular committee. This amendment builds greater financial accountability into our finances in the state. I think it is something that we will all want to support. Thank you.

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

Senator **BENNETT:** Thank you, Madame President and fellow members of the Senate. I rise in support of the pending amendment. I had prepared an amendment that has been incorporated into this amendment by working with the Senator from Androscoggin, Senator Rotundo. Many of the ideas come straight from the state auditor. I happen to be of the opinion that the recent and continuing unfolding of issues in our audit function has pointed out some concerns that I have, not only about the management of funds and the obvious issues that it presents, but also about legislative oversight and the function of accountability here. The state auditor is elected by the legislature. I think there is a reason for that. We may not agree with it, but there is a reason for it. The reason is that there is a sense that the auditor is supposed to be accountable in his or her work to the legislature, to the Senate and the other body, not to the Executive Branch. I think it is time for us to strengthen our working relationship with the auditor. Having served on the Appropriations Committee in the past, I am aware that once in a while the single state audit is actually used by the Appropriations Committee and questions are asked. It is far too infrequently. In fact, the policy committees often don't even look at the single state audit as it relates to the departments and agencies under their purview. I'm hopeful that this amendment will set us on a new course in strengthening the relationship between the auditor and the legislature and provide a meaningful information bridge between the auditor and our legislative committees so that they can perform their oversight functions much more effectively. I would encourage you to support the pending motion.

On motion by Senator **ROTUNDO** of Androscoggin, Senate Amendment "B" (S-246) **ADOPTED.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-369) AND SENATE AMENDMENT "B" (S-246), in NON-CONCURRENCE.

Sent down for concurrence.

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

The Chair laid before the Senate the following Tabled and Later (5/28/03) Assigned matter:

HOUSE REPORTS - from the Committee on **NATURAL RESOURCES** on Bill "An Act To Protect Public Health by Reducing Human Exposure to Arsenic"

H.P. 963 L.D. 1309

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-490)** (12 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-491)** (1 member)

Tabled - May 28, 2003, by Senator **DAVIS** of Piscataquis

Pending - motion by Senator **MARTIN** of Aroostook to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-490)** Report, in concurrence

(In House, May 27, 2003, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-490)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-490)**.)

(In Senate, May 28, 2003, Reports **READ**.)

On motion by Senator **MARTIN** of Aroostook, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-490)** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-490) **READ.**

On motion by Senator **WESTON** of Waldo, Senate Amendment "B" (S-247) to Committee Amendment "A" (H-490) **READ.**

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

Senator **WESTON:** Thank you, Madame President, men and women of the Senate. The majority report on L.D. 1309 accomplishes several things. Most of it I support, and I know that our retail lumber stores support it as well. Before I say much more, I understand there are some issues that are confusing about this bill. About what it does, and what it doesn't do. The industry came to our EPA last year in response to public concern that was raised by groups and after a new treatment product was developed and was on the market. They then voluntarily began phasing out the CCA treated wood.

This has nothing to do with the playgrounds that have CCA pressure treated wood, which is also known as the arsenic treated wood. It has nothing to do with the arsenic that that occurs naturally. Specifically, natural arsenic is a threat found in our well water. This is predominant in Maine, and in my district, and is an issue the state toxicologists would like us to focus on. This is a natural occurrence.

What does the majority report do? It asks the DEP to develop rulemaking to look at the disposal of CCA treated wood, and to make certain that we are taking the best approach for segregating and disposing of it. It asks DHS to undertake a comprehensive review of the drinking water from private wells, and the high rate of natural arsenic that is occurring. It asks homeowners who sell their homes without a broker to disclose to buyers whether that property has any CCA treated wood. Finally, the piece that I do find an objection to, which is in Section 2, puts a ban in statute on the sale of residential CCA treated wood. I might add that this would be the only ban in the nation, despite an agreement with the EPA.

Why do I feel so strongly about this? This provision really does nothing on the ground that isn't already being done and is currently in place. There is a voluntary agreement between the industry and the EPA, which was initiated by the industry. All Section 2 does is force this voluntary agreement to take effect three months in advance. The real implication of this proposal is to the businesses in our districts. It will leave our retail stores, and many manufacturers, with a huge liability risk that occurs with putting a ban in statute. For what end? There is no environmental benefit. If anything, it takes a step back and adds an additional risk to our local hardware stores' ability to conduct their business.

This isn't a health issue. The EPA has yet to finalize its own analysis of whether there is a threat. In fact, the EPA released a quote last year saying that they haven't concluded whether or not it poses an unreasonable risk. The EPA doesn't believe there is any reason to remove or replace structures already in place. Our own toxicologist shared with the Natural Resource Committee that the real threat is to our private wells. In my own town of Northport, we have been dealing with that. A

child would have to lick a piece of wood every day for 10 years to develop a risk. We do know that trial lawyers have focused on this, and have yet to be successful. If we put a ban in statute, it will give them a leg up in Maine.

The impact in the State of Maine of creating this new liability is a risk to our neighborhood lumber stores, without any real benefit to Maine people. In fact, CCA treated wood should remain on the commercial market because it is a better environmental choice when it is used around water or lake or ocean properties. The new alternative is harmful and even toxic to fish. Many retailers won't be exposed to the liability associated with selling CCA treated wood, because the ban is for residential purposes and not commercial. For example, if my neighborhood retail lumber store sells a piece of this treated wood to a consumer to be used to build a boat dock, which would be the better environmental product, but then the consumer takes some of those boards and builds a deck on his house, my neighborhood retail lumber store has just exposed himself to a product liability lawsuit.

I have heard the argument that it is unlikely that a judge would put much weight in a state ban if a retail store was named in a suit. We all know that our neighborhood stores will try to avoid the cost of litigation, and most often will settle just to keep out of any protracted litigation.

Finally, I hope you will support this amendment and join me in supporting the senseless ban that will put our stores at risk. This amendment removes Section 2. It leaves everything else in place. It simply removes the ban. All the ban does is move it up three months. Many retailers have already converted. All of them will shortly, but not necessarily three months in advance. It simply removes the threat of litigation, and the risk associated with placing a ban in statute. I hope you will support me and the many retail stores in our districts that include the following:

EBS Lumber Store with stores in Rockland, Bar Harbor, Ellsworth, Belfast, Blue Hill, Bucksport, Calais, Camden, Machias, and Warren. Hammond Lumber with stores in Auburn, Greenville, Skowhegan, Belgrade, Fairfield, and Farmington. Hancock Lumber with stores in Casco, Bethel, Kennebunk, Portland, Pittsfield, Sanford, South Paris, Windham, and Yarmouth.

Other stores include Mariner Lumber in Damariscotta, Wiscasset, and Brunswick; Deering Lumber in Biddeford and Kennebunk; Hillside Lumber in Westbrook; Maine Wood Treaters in Mechanic Falls; S.W. Collins stores in Presque Isle and Caribou; Bill Lumber in Bridgton; Granville Lumber in Holden; Homestead Building Supplies in Gray; Island Lumber in Vinalhaven; Kents Hill Lumber in Kents Hill; LaPointe Lumber in Augusta and Gardiner; LaValley Lumber in Springvale and Sanford; Mathews Brothers in Belfast; McCormick Building Supplies in Winslow; Moulton Lumber in West Newfield and Cornish; N.C. Hunt in Jefferson; Parent Lumber Company in Mechanic Falls; Phinney Lumber Company in Gorham; Poole Brothers in Boothbay, Pemaquid, and Damariscotta; R.E. Lowell Lumber in Buckfield; Rankins in Camden; Robbins Lumber in Searsmont; Rufus Deering Lumber in Portland; Sterns Lumber Company in Hampden and Millinocket; Storer Lumber in Waldoboro; Pineland Lumber Company in Lewiston; Viking Lumber Company in Lincolnville, Belfast, and Hancock; Ware Butler Lumber in Livermore Falls, Waterville, and Madison; Welch's Hardware Store in Lebanon; Downeast Building Supply in Brunswick; Correct Building Products in Biddeford; Bingham Hardware in Bingham; and Eldredge Lumber in York.

I know there is a section in the majority report that says that you cannot hold this against any of these companies. You pass a statute that says you can't use it against them. The statute is a ban, but you can't hold it against them. This sounds like an exciting opportunity for litigation to me. We are putting all of these companies that we represent, who are struggling in this climate in this state, at risk for an advance of three months on the ban. Please support this amendment and your local lumber dealers. Thank you.

Senator **MARTIN** of Aroostook moved to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-247) to Committee Amendment "A" (H-490).

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

Senator **MARTIN:** Thank you, Madame President. Let me try to explain to the members of the Senate why the committee had voted 12 to 1 with the majority report. The amendment that has just been offered is almost a duplicate of the one person who voted for the minority report. Let's begin with that premise.

Let me just talk a little about the threat and the danger of this supposedly nice piece of wood. I suggest when you go home tonight that you practice this appropriately. Stop at the store a sells this treated wood. Take a board home with you. Take a knife and scrape it. Put the scrapings in water and drink it. You won't be here tomorrow.

Take your child. Wet the hand of the child. Rub it across that board. Let the child put that in his or her mouth. According to every study depending on the age of the child, the more dangerous it becomes. These are not my words. They are the result of the study.

It is arsenic that we are talking about. It is what the CCA that is on that wood is. There are many countries around the world that have banned this product completely. As a matter of fact, it was banned in some countries in 1970. It is used more in this country because it was sold as a way to preserve the wood. Let me tell you how much more dangerous it is. If you have any on your back porch and you have young children, make sure you paint it every year, because potentially your children can be harmed. These are not my words. As a matter of fact, this is so serious that last year the Governor of Florida asked the companies that use and manufacture wood with CCA to stop the production or leave the State of Florida.

Let me just give you just a little more. You may wonder why the ban. Here is the problem. We actually have some companies, not discussed by the good Senator, that are what we refer to as the 'big box', or at least I do. I think you all know about whom I speak. The big box has basically said they will continue to buy this, and stock it until the last possible day. That is why there is an earlier ban in this law, so retailers in Maine will not be caught with it. That is what we were concerned about. I'm not sure how much time we, as a committee, spent on this issue. I think we had three complete hearings. Every time we would have a work session people would come in and we'd let them speak. Before you knew it, we had another public hearing going. My guess is, between public hearings and work sessions, we probably spent 20 hours on this bill alone.

Let me go back to the EPA. Voluntary as it may have been, and the industry did go voluntarily, they knew that the study was ongoing and the ban was coming. The order under which the order was given specifically says, and I quote from the federal register, 'any distribution, sale, or use of existing stocks in a manner inconsistent with the terms of the cancellation order or the existing stock provisions contained in the order will be considered a violation of this section.' That is exactly what we are trying to do here. It is not to be used. I repeat, EPA is saying do not use this product after the effective date of the ban in December 31, 2003. That is what they are saying. It may sound voluntary, but it isn't. It became that way because the industry said they wouldn't sell any more for residential use. In fact, it is basically saying don't use it.

We put in the issue of purchase so Maine people would know that we are not going to allow it. By the way, the retail association in Maine said they would be happy with what this bill provided, because they are protected. That is why you have the protection in there on the civil trial action. That is guaranteed. By the way, you don't find that much in state law anywhere. There are only four or five. When they asked us to do it, one member of our committee said, 'You can't do that, we don't do that.' I said, 'I believe we've done it before.' I remembered one instance. We called the AG's Office and they said we had done that a couple of times for Maine businesses. We put it in so Maine businesses are protected. I'll tell you who isn't protected, the big box. It's not surprising that they hired about half the lobbyists in the State House. They have told you stories that are not accurate. I suspect they don't know the other side of the story, because they've been told one thing. I have a letter here from the big box that basically said they are going to buy it as long as they can. That is why the amendment is drafted the way it is. For no other reason.

We've been told that no one has ever done anything about this. I can tell you that New York, right now, bans it for use in all public playgrounds. Right now. It's being discussed in California, Florida, Mississippi, New Jersey, Vermont, Virginia, and Maryland as we speak. It is not something that is not going on because now the word is out. It is bad. Yes, there is a possibility, they say, for commercial use, where human beings are not there, right now. Because there is no substitute, we're going to let them use it. That is what the EPA is saying. I might point out that the University of Maine in Orono is studying this issue and they expect to have something out in about three years. Once we have that, guess what? This will never be needed again in this country, even for use on the waterfront. For the moment, there is no substitute. That is why the EPA allowed its use. The EPA exclusion deals with what is going on with human beings. That is why it has been drafted the way it is.

I urge you to support the motion to indefinitely postpone the amendment that has been offered. In this committee, we have, with a 12 to 1 vote, protected Maine businesses as well as the humans in this state. That is why it is drafted the way it is.

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

Senator **SAWYER:** Thank you, Madame President, ladies and gentlemen of the Senate. I was pleased to be on the majority report, to make it 12 to 1. I agree with almost everything that the good Senator from Aroostook, Senator Martin, said with one exception. I don't believe we need to pass a ban. I believe that there are better vehicles available to us to modify people's behavior than a ban. No other state has passed a ban on sales. Even our own committee, when discussing mercury amalgam fillings, chose not to pass a ban on mercury amalgam fillings. Let me stress that I believe there are better vehicles available to us than a ban. Therefore, given the choices available to me, I'll be voting in support of the Senator from Waldo, Senator Weston's, amendment. Thank you.

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

Senator **DAVIS:** Thank you, Madame President. Might I ask a question for the Senate through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **DAVIS:** To any one who could answer, I'd like to know if there has ever been a documented case of any one dying or a documented illness from the use of pressure treated lumber or from being around it? Thank you.

THE PRESIDENT: The Senator from Piscataquis, Senator Davis poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President. To respond to the question from the good Senator, I don't have it right in front of me, but the answer is yes. There was evidence that was submitted.

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

Senator **WOODCOCK:** Thank you, Madame President, ladies and gentlemen of the Senate. I have always been deeply respectful of the legislative service of the good Senator from Aroostook, Senator Martin. I was not aware, however, that he was a chemistry major when he went to college. I'm encouraging you not to go home tonight and scrape a piece of this wood off that you purchase and put it in a glass of water. It has nothing to do with the arsenic. It has everything to do with the water supplies in some places in the State of Maine. I urge you to be very careful.

From my perspective, after getting a call from a small lumber company in Kingfield, I'm concerned when we limit the sales of small lumber companies in rural Maine. When the production of this arsenic treated lumber is, in fact, stopped and the supply dwindles to nothing, I don't have a great deal of evidence that this has become a problem in the state. I'm not overly concerned about the three month period that is being offered in this amendment. I'll be supportive of the amendment.

Same Senator requested a Roll Call.

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

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. I want to make two points. I really and truly think the notion that there is a liability concern is a complete and total red herring. Statutory restrictions on hazardous products have no bearing on past liability. For example, 16 states have banned the gasoline additive MTB, but no legal liability resulted to the makers of the chemical. To protect against that we, on the committee, added Section 1683 at the request of the Maine Retail Lumber Dealers' Association, which protects Maine businesses from personal injury law suits based on the past sale of arsenic treated wood. I think we're all trying to get to the same place here. I think any suggestion that members of the committee were not taking the Maine Retail Lumber Dealers' Association into consideration is a flat out untruth. People worked very hard to reach some kind of compromise, and this was the one that was presented. I feel very strongly that people did it in good faith, and that there is no need for this. The only thing I can figure out, since we met in the committee, is that folks from out-of-state have been on the phone lines. We did what the Maine Retail Lumber Dealers' Association asked. I think that is sufficient. Thank you.

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

Senator **WESTON:** Thank you, Madame President, men and women of the Senate. Having a ban like this in statute could be a lawyer's dream. I don't want to take that risk for the guys who are running a business in my district. There are good parts of this bill, and that is why they stay intact with this amendment. I would pose a question also. For anyone who sells to another state, we'll say New Hampshire our bordering state, will this protection that we are counting on be there for them? Thank you.

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

Senator **MARTIN**: Thank you, Madame President. In reference to the question that has been posed by the good Senator, the answer is no.

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

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

Senator **SAWYER**: Thank you, Madame President, ladies and gentlemen of the Senate. I guess we all make our living these days as work-smiths. There was one piece that I don't think was attended to in our commentary. It is my understanding that there is no federal ban on the manufacture of this material. It is my understanding that upon threat of a ban by the EPA, the manufacturers voluntarily entered into what is called a notice of cancellation order. I suppose if it walks like a duck and talks like a duck, it is a duck. Nonetheless, it is my understanding of the federal statute that the federal government did not ban the manufacture of CCA wood. Thank you.

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

Senator **MARTIN**: Thank you, Madame President and members of the Senate. Just to clarify. In my comments I did not say, nor did I intend to say, that there was a ban on manufacturing. I didn't say that. I said there is a ban, voluntary though it may be, on selling it for domestic use. I quoted from the federal register, which I have in my hand. As a matter of fact, they can only use existing stock and it must all be used before the date that I referred to earlier. Anything after that would be a violation of the EPA order.

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

Senator **SAVAGE**: Thank you, Madame President, men and women of the Senate. I guess I need some clarification because a prior speaker mentioned that Section 1683, which was added at the request of the Maine Retail Lumber Dealers' Association, protects Maine businesses from personal injury lawsuits. When I look at Section 1683, it looks to me like it is protecting those people who transfer their real property. Am I wrong or am I not reading it correctly?

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

Senator **MARTIN**: Thank you, Madame President. Let me refer to the bill itself. It deals with any civil action against any wholesaler, retailer, or installer. They would be covered by the exemption.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Aroostook, Senator Martin to Indefinitely Postpone Senate Amendment "B" (S-247). 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 (#138)

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

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

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **MARTIN** of Aroostook to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-247) to Committee Amendment "A" (H-490), **PREVAILED**.

Committee Amendment "A" (H-490) **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-490)**, in concurrence.

Off Record Remarks

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 Revise Certain Provisions of Maine's Fish and Wildlife Laws

H.P. 1087 L.D. 1482
(H "A" H-524 to C "A" H-422)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with 1 Senator having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED**.

(See action later today.)

Emergency Resolve

Resolve, Regarding Legislative Review of Chapter 7: Rules Advancing the Performance of Sound Student Safety Practices in Maine's Public Schools and Colleges, a Major Substantive Rule of the Department of Labor, Bureau of Labor Standards, Board of Occupational Safety and Health

H.P. 1101 L.D. 1508
(H "A" H-521 to C "A" H-423)

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.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/28/03) Assigned matter:

An Act to Amend the Membership of the Propane and Natural Gas Board

S.P. 49 L.D. 126
(H "A" H-503)

Tabled - May 28, 2003, by Senator **TREAT** of Kennebec

Pending - **ENACTMENT**, in concurrence (Roll Call Ordered)

(In Senate, May 23, 2003, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-503)**, in concurrence.)

(In House, May 27, 2003, **PASSED TO BE ENACTED**.)

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#139)

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

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

ABSENT: Senator: MITCHELL

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.

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

With reference to the action of the Senate whereby it **INSISTED** and **ASKED** for a **COMMITTEE OF CONFERENCE** on the disagreeing action of the two branches of the legislature on:

Bill "An Act to Revise the Reimbursement by the County Jail Prisoner Support and Community Corrections Fund and To Provide Additional Support to County Jails"

S.P. 390 L.D. 1186
(C "A" S-227)

The Chair appointed as conferees on the part of the Senate the following:

Senator **STRIMLING** of Cumberland
Senator **DAMON** of Hancock
Senator **DAVIS** of Piscataquis

On motion by Senator **WOODCOCK** of Franklin, the Senate **RECONSIDERED** whereby it **PASSED TO BE ENACTED**, in concurrence, the following:

Emergency Measure

An Act To Revise Certain Provisions of Maine's Fish and Wildlife Laws

H.P. 1087 L.D. 1482
(H "A" H-524 to C "A" H-422)

(In House, May 29, 2003, **PASSED TO BE ENACTED**.)

On further motion by same Senator, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in 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 Today Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Ensure that Maine's Unemployment System is Responsive to the Needs of Today's Workforce"

H.P. 195 L.D. 240

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-482)** (8 members)

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

Tabled - May 29, 2003, by Senator **EDMONDS** of Cumberland

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

(In House, May 28, 2003, 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-482) AS AMENDED BY HOUSE AMENDMENT "A" (H-528)** thereto.)

(In Senate, May 29, 2003, Reports **READ**.)

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

Senator **BLAIS:** Thank you, Madame President, men and women of the Senate. This is yet another piece of legislation that will increase costs for Maine's small businesses. This occurs just a few short years after employers accepted some \$30 million in rate increases to ensure the solvency of the Unemployment Insurance System. That was done in two parts, in 1999 and 2001. I'm sure that some of you here were part of that, and will remember it. You will also remember that the idea then was to bring down unemployment insurance costs to help Maine businesses compete. Maine employers supported huge temporary tax increases in order to bring costs down, and to bring solvency to the system. That was done in good faith. Fast forward to today, to 2003. With rates at Schedule B, all the good faith amounts to nothing. With the trust fund solvent and rates slightly down, here comes L.D. 240, which is just one of several pieces of legislation designed to grab that \$30 million investment in the system to extend benefits.

The majority report we have before us would extend unemployment benefits to persons who are not available for full-time work. It would also expand eligibility to include payment for family medical leave. In order to pay for this, the cost increase to our state's employers amounts to more than \$2 million a year. Combined with other legislation we've seen and we will see, such as the Social Security off-set passed by this body just a week ago, the Department of Labor predicts the system will move from Schedule B to Schedule D in just a few short years. Each schedule change costs employers from \$13 to \$15 million in increases every year. The House amendment that was attached to this bill would sunset the provisions of L.D. 240 in 2005. It's being used in an effort to soften the impact of the staggering cost increases this legislation will force.

Does anyone in this body really believe this legislature, or any future legislature, would have the will to actually sunset a benefit once it is in place? Unemployment insurance provides temporary income for persons who have lost their jobs, through no fault of their own, while they search for new jobs. In the State of Maine, it's paid entirely through assessments on employers while the benefit is entirely for employees. Only eight states in this nation insure part-time employees the same way as full-time employees. L.D. 240 will continue the drive to make Maine the single worst state in the nation to start and run a small business, or any business for that matter. If you want to drive a social agenda on the backs of Maine employers, or if you want to kill job growth and convince more small businesses to close their doors, please support the motion on the floor. If you want to join the Chief Executive in growing jobs by helping Maine's small business compete, please join me in opposition.

The small businesses that employ many part-time people will be especially hard hit. The average tax increase for a small restaurant, like mine, would be \$353. The average unemployment insurance tax increase for a small motel would be about \$400. These are costs that our Maine small businesses simply cannot afford at this time. We're 49th in the nation in terms of our ability to support small business. We have a growing reputation for being a state that is unfriendly to small

business. I believe that our Chief Executive wants more jobs, more taxpayers in this state, not more taxes. I would hope that you would oppose the majority Ought to Pass report. Thank you.

Off Record Remarks

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

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. I am very pleased to be before you today with this bill. I'm also pleased to give you very good news about this bill. Let's see, where do I start? Well, in 2002 the federal government stimulus bill called the Reed Act brought about \$32 or \$33 million into Maine and into the Maine unemployment insurance trust fund. At that time, it gave states the option to provide part-time workers with coverage, with benefits. I should note at this time it is important to remember that presently every employer in the state already pays a premium for part-time workers. You are already paying it. The only trouble is if you are a part-time worker you can't get the benefit unless you happen to lie and say that you are looking for full-time work. The premium is already being paid, the benefit is not being paid.

When the Reed Act money came into the state, these funds went directly into Maine's unemployment trust fund where they had the effect of triggering a substantial tax decrease for employers, nearly \$25 million in the year 2003. That was the second year in a row that employers had a significant tax decrease. Their taxes were reduced by \$37.6 million in 2002. The money is already there, we're trying to figure out how to let these folks get benefits. In the workings of this bill during the committee, we said okay, if a person has a history of working part-time, they should be able to go to the unemployment system and say I've lost my part-time job, I'm going to only look for part-time jobs because that is my work history.

We added another small piece, which I really think will be relatively small, although others may differ. If somebody has good cause, and the good cause is very narrowly drawn as it has been in the policies and statutes heretofore, having to do with a spouse or a child who you find out some catastrophe has happened to, and you have been laid-off and can't seek full-time work because somehow or another there has been some disaster in your family and all you can do is seek part-time work. It would seem to me that if a person is trying to work and care for somebody who is ill, we should support them. We should give them a hand. We should say yes.

There are lots of charts. I won't bore you with them except to say that when we pass L.D. 1552, which was a bill that had to do with the Reed Act withdrawal of \$9.7 million that was to give us the unemployment 800 number which everybody in the state knows we badly need, and to do long needed and anticipated computer upgrades, the passage of that bill changed the potential for what our unemployment contribution schedule is going to be. Presently, in 2003, we are at Schedule A. In 2004, we will be at Schedule A. In 2005, when this bill sunsets, we will be at Schedule C. In 2006, we will be at Schedule D. In 2007, we will go back to Schedule C. In 2008, we'll go back to Schedule C. If you have part-time workers, the exact same thing happens. It changes it not one bit. If you put the two together, which I'm hopeful we will do, there is a small chance that in 2007 you might go from Schedule C to Schedule D. However, in conversations I've had with the unemployment insurance trust fund, they have said to me, 'Well, you know we're very mindful of not trying to raise the employer's contribution level up in a bad way, so we have some discretion about how we're going to spend the money that we have been allocated for computer stuff and it is our intention to spend it in such a way that we don't, in fact, raise the rate at all beyond what is anticipated.' From my point of view, this will have no changes at all to what is going to happen regardless.

I was just reading, as you probably all were, through all my clippings and I came to one in the Bangor Daily News yesterday that talks about how ten Maine communities now have double digit unemployment. If we did nothing, the unemployment compensation schedule would raise because we're having increased unemployment.

What else do I want to say about this? I just want to say that it seems to me that the 70% of the part-time workers in Maine who are women deserve a chance to get the benefit that they have been promised. Some will argue to you that employers pay out this premium. Yes, they do. I'm pleased and gratified that they do, but it is part of an employment benefit package to the worker. If they didn't pay that, from my point of view, they should give the worker more money. The fact is, somebody who is a part-time worker is already having this money paid into the unemployment trust fund for them. This is a benefit they should be receiving, but when they are unemployed they don't get it. I understand that others will not agree with me. Unemployment benefits have been proven to be the best form of economic stimulus we can enact, because immediately those dollars go into the

local economy where they are spent for rent, food, or gas. I strongly urge you to join me in the majority Ought to Pass as Amended report.

Senator **EDMONDS** of Cumberland requested a Roll Call.

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

Senator **SHOREY:** Thank you, Madame President, men and women of the Senate. I just have to shake my head sometimes. Unemployment benefits are an economic stimulus? No. It is not an economic stimulus. Jobs are an economic stimulus. Ten counties with double digits. What do we want to do, make it 20? Make it 30? What do we want to do, just drive these people out of business? Is that what we want to do in this chamber? I don't think so. I will not be supporting this because I will not raise the cost to small businesses. I'm a small businessman. I challenge many people to go into business and see what it is like to do business in the State of Maine. I will tell you, it is not good. You can see all the jobs that are leaving the state, packing up and going to New York. They are not going to other countries. They are going to other states in the United States. I would be very pleased to be standing in front of you and saying that I support this. I think this is wonderful, if we could afford it. We can't. We get in this little chamber here and we say we have our partisan views and we have to do this. You know what, everybody has to go home. Everybody has to look at that guy down the street who employs two or three part-time workers who would have to pay more. You know what, you should look at him and tell him that you voted for this. Please do that because I am not going to do that. I will not put more burden on the small businessman and woman in the State of Maine for economic benefits, economic development through unemployment benefits. It just doesn't make sense.

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

Senator **SAWYER:** Thank you, Madame President, ladies and gentlemen of the Senate. Quite often I'm saddened that our rules don't allow us to use props. Some of us are visual learners and others learn other ways. If I could have a prop before me today, I'd have a goose. It would be golden. I'd squeeze that golden goose and out would plop an egg that says 'More jobs for our children.' I'd squeeze it again and it would say, 'Increased tax revenues to the state,' so we could accomplish the things that we'd like to accomplish. I'd squeeze it again and out would pop an egg that says, 'Increase family stability because of good paying jobs.' Then I would take a little twine and tighten it around the geese's neck, just a little bit. Not a lot. I'd just tighten it a little bit. The question for me is, at what point do we know that we've tightened that twine too tight? I would propose to you that we would know that we have tightened it too tightly when the State of Maine would be 49th in the nation in the small business survival index. We would know that we had tightened that twine around my little golden goose when we would be 39th in the state in what we pay Maine workers. Obviously, we would know it was too tight when we are hemorrhaging young workers to other states. Please don't tighten that noose any tighter. Thank you.

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

Senator **BLAIS:** Thank you, Madame President, ladies and gentlemen of the Senate. I'd just like to address a few of the things that the good Senator from Cumberland, Senator Edmonds, had to say about this bill. One of those has to do with the purpose of unemployment insurance. I think there was the characterization that unemployment insurance is a package, an employee benefit. The reality is that it is a mandate. It is a state mandate on employers. It's not something that they choose to do, it's something that they are mandated to do. I think most employers are happy to do that. They recognize the benefits of the program. I think when the program itself was first put in place, the purpose of unemployment insurance was to provide a bridge for full-time workers who were relying on a single stream of income, who lost their jobs, to be able to have some small amount of money to get them to the next job. I think that is perfectly appropriate.

What I don't think is appropriate is to take that system and turn it into some kind of social services system. We are now going to be allowing people to move on to unemployment insurance and take advantage of this insurance based on things like this. This is from the amendment which says that an employee will have the ability to leave their job, not because they were laid-off, not because they were fired unfairly, but due to the illness or disability of the claimant's immediate family member or when necessary for the safety or protection of the claimant or claimant's immediate family member. Necessary? Who is going to decide when something is necessary, and when it's not necessary? Who is going to decide what these terms mean? The safety or protection. Are the police going to decide that? Are the courts going to decide that? I think we have a piece of legislation here that is entirely unmanageable.

I'd also like to talk about the Reed Act money. Some of you who may not be in small business may not be aware that small businesses don't just pay state unemployment insurance taxes, we also pay federal unemployment insurance taxes. This Reed Act money that we're talking about is the federal government giving us some of those taxes, which we've already paid to the federal government, back. The reason they do that is to help the states to keep their funds solvent, to help keep taxes down, and to provide for certain capital improvements. L.D. 1552 was reported out of committee unanimously, and passed by this body just recently to provide \$10 million in capital improvements, particularly to computer systems for the unemployment insurance system.

I wish that I had the eloquence of my colleague, the good Senator from Penobscot, Senator Sawyer, in painting a picture of what we small businesses in this state face. All I can say to you is something that I have said before. This is personal. I want a state that works for everybody. For the employer and employee. We have to stop the divisiveness and work together. What I see happening in this body and on that committee that I sit on is one side looking at employers and seeing people who are bad and people who are trying to exploit our workforce. I'm going to tell you, as an employer, that this simply is not the truth. If carrying that in your mind gives you satisfaction by transferring social programs onto employers and saying this is just what we need to do, I would say to you that is unfair and it does nothing but continue the vicious cycle in this state. We have got to end that vicious cycle and start working together. I hope that you will join me in telling the small businesses of this state that we want them to continue to be here and live in our state. We want them to continue to grow jobs in our state. The way to do that is to oppose the majority Ought to Pass report. I would hope that you would join me in doing that.

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

Senator **BRYANT:** Thank you, Madame President, ladies and gentlemen of the Senate. I would concur with the Senator from Cumberland, Senator Edmonds, that is exactly what this bill does. It brings us together. Today's workforce has changed. The people that work have changed the way they work. Small businesses change the way they hire people. What this bill does is allow us to be one. It allows us to help people. The money is there. I don't buy the argument that it's going to change the rates one bit. It allows us to have people that are in need use the system. You are paying for the part-time worker right now. This won't change it. So I would encourage you to vote for the pending motion.

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

Senator **TREAT:** Thank you, Madame President, men and women of the Senate. I urge you to vote for this bill. It's a very important bill, one of the most important bills that we have before us this session. It is something that many legislators in this body, and in the other body, have been working on for years. We now have the opportunity because of federal money to take advantage of that so that we can implement this program without affecting our Maine businesses. We have an unemployment system that was born in the 1930's. It is a system that no longer reflects the society and the workplace that we have today.

We live in a society today that is increasingly difficult to balance family and work. Many families have part-time workers there to take care of the families. We don't have the luxury nowadays where one member of a two-parent family can stay home with the kids. We have a lot of single parent families. We have families where children are sick, and people need to be there part of the time. We also have a workforce and a work place where more often than not part-time employment is what is offered as opposed to full-time employment. Part-time workers are now an essential component of our workforce. That was not the case when the unemployment system was established in the 1930's. Denying benefits to part-time workers, many of whose earnings are essential to their families and to themselves, places a huge burden on those workers and on our society. I'd like to point out that a disproportionate number of part-time workers who must work part-time and continue to work part-time are women. The denial of these benefits to women, even though their employers are paying into the system, is a very unfair thing. It is something that it is high time we correct now that we are in the year 2003.

Again, the points have been made. This is a system that is not a welfare system. It is for people who have been paying into the system by working for their employers. They need to be compensated during the time when they are looking for work. We all know that work is hard to find. In fact, in Congress just recently they extended unemployment benefits for a number of states because of the high unemployment rate. That is in recognition of the importance of this unemployment system to everyone. Again, I urge you to support the majority Ought to Pass report.

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

Senator **STRIMLING**: Thank you, Madame President. Briefly, as someone who runs a business, a business that pays unemployment insurance, a business that struggles every month to meet payroll, to make ends meet, a business that has part-time and full-time employees, I am proud today to be voting for this bill. Now I can go back to my district and look at the unemployed people in my district and my part-time employees and say if there is a time of hardship, I stood up for them today. I put their interests ahead of the interests of some of the special interests here, and ahead of the special interests of the perceived bottom line. I know what unemployment costs on my bottom line. Even if unemployment was going to go up a little bit on this, it has nothing to do in terms of whether I can operate in the black or operate in the red. If you want to deal with those costs, we know what they are. They are health care. That's what makes my organization balance its budget. That's where my costs are. Not here. I'm proud to vote for this bill, even though it might cost my organization some money.

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

Senator **EDMONDS**: Thank you, Madame President, men and women of the Senate. I just want to clarify a few foggy areas. The good cause provision in the law presently says that good cause due to leaving for illness or disability of a family member comes under the eligibility provision, not under the voluntary quitting part. In other words, when you go to the unemployment compensation office and say you have lost your job and you try to seek benefits, they have eligibility provisions. Good cause already exists, it is already there. It has nothing to do with deciding you are going to quit so that you can get this benefit. This happens when you've lost your job.

Secondly, believe it or not, our federal Senators Snowe and Collins both voted for extension of unemployment benefits in an economic stimulus package.

Finally, if you don't pass this bill today, the employer's contribution will be exactly the same as if you do pass this bill today. Period. The end. Thank you.

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

Senator **BLAIS**: Thank you, Madame President, men and women of the Senate. I would like to bring to your attention to the fact that the federal money that we are talking about here is one time money. What we are talking about is extending a benefit using one time money. I think it is very easy to juggle these figures around, considering that there is a sunset in place. I say that there is not going to be a net effect because a sunset, which we know, judging from the passion that there is in this house and the many years of work that has been done to try to bring this legislation to this body, is probably never going to happen.

I also wish that the small businesses that I own had the benefit of non-profit status. Then it would be easier for me, I suppose, to not have to hope that I can pay my federal and state taxes based on people coming in my door, but on who is going to contribute to my non-profit as well as the tax advantages I would have as a non-profit.

The final thing I'd like to say is that when I talked about working together, I was talking about working together to take responsibility to grow jobs in this state, to accept individual responsibility to make a decent living, and take responsibility for ourselves. I certainly was not talking about turning the employers of this state into the moms and dads of the employees of this state. I don't think that this is the direction that we want to go in.

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

Senator **STRIMLING**: Thank you, Madame President. I certainly have to respond. I find it very unfortunate that there would be any kind of comparisons made, of any kind, of what are perceived to be comments that it is easier perhaps to run a not for profit than it would be to run a for profit in this state. I would invite anyone to come by my organization and take a look at my balance sheet, and take a look at the struggles that we have to go through and all the costs. I would also add that we, of course, pay property taxes. We pay virtually all of the taxes that most other businesses pay. We don't have to pay all of the sales taxes, but many businesses in this state also do not have to pay sales tax. So I would encourage anyone, before they start trying to impugn the struggles of running a not for profit, to come and check it out.

Earlier today we also had a debate about raising the costs on hospitals. Those hospitals are all non-profits. Certainly, in that instance, people stood up to protect them as struggling to make ends meet.

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

Senator **HATCH**: Thank you, Madame President, ladies and gentlemen of the Senate. I rise today to ask you to vote for this bill. Having been here through the troubled times of the unemployment system, and having worked diligently in the other body as chairman of Labor to see that it is in the shape it is in today, and knowing what the workforce looks like today compared to what it looked like 8 or 9 years ago, it is a far cry. The businesses in this state took it on the chin at that time. We increased what they had to pay per employee. They did it. The system is whole. We all did a good job. The system has changed now. We have more part-time people, because some businesses need part-time people now. They can't afford insurance, but they need the bodies. They need the same man hours. Now, what is left is people without health insurance in a part-time work environment. I'm pleased that we recognize that the workforce has, indeed, changed. We need to make sure that when they have a rough spot they are also covered by our unemployment system. So when you vote today, please follow the light of the good Senator from Cumberland, Senator Edmonds, because this is a good bill. Thank you.

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

Senator **TURNER**: Thank you, Madame President. There were a couple of comments made on this now very extensive debate that I believe warrant correction. I believe the extension of unemployment benefits is not being extended because of high unemployment, but rather the duration. They are finding the average unemployment is now exceeding 5 months. Hence, the need for the extension from 26 weeks to an additional 13.

Secondly, it was mentioned that the stimulus package was supported by both of our U.S. Senators. I believe only one of them, Senator Collins, supported the package.

On motion by Senator **EDMONDS** of Cumberland, supported by a Division of at least 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 Cumberland, Senator Edmonds 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 (#140)

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

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

ABSENT: Senator: MITCHELL

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

READ ONCE.

Committee Amendment "A" (H-482) **READ**.

House Amendment "A" (H-528) to Committee Amendment "A" (H-482) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-482) as Amended by House Amendment "A" (H-528) thereto, **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-482) AS AMENDED BY HOUSE AMENDMENT "A" (H-528)** thereto, in concurrence.

Off Record Remarks

Senator **DAVIS** of Piscataquis 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 **TREAT** of Kennebec, **ADJOURNED** to Friday, May 30, 2003, at 12:30 in the afternoon.