

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

In Senate Chamber
Wednesday
April 7, 2004

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

Prayer by Senator Richard A. Nass of York County.

SENATOR NASS: Thank you, Madame President. Please join me in this prayer. Hopefully it will guide our activities today.

Dear Heavenly Father, as we go to work in this chamber today, I ask that Your presence be with us. As we serve the people of this state, I ask that Your peace, Your grace, Your mercy, and Your wisdom be with each of us. We acknowledge Your power over all that will be spoken, thought, decided, and accomplished within these walls. Lord, give us a fresh supply of strength to do our job. When we are weary, energize us. When we feel burned out, infuse us with Your holy spirit. When we are confused, guide us with Your wisdom. We thank You for Your many blessing that You give us each and every day. Lord, I ask for a special blessing for us as we come to the end of this legislative session, that You will give each of us the strength and courage to be faithful in our work and in our representation of the citizens of Maine. I ask all these things in the name of Jesus Christ, Lord and Savior. Amen.

Reading of the Journal of Monday, April 5, 2004.

Off Record Remarks

COMMUNICATIONS

The Following Communication:

S.C. 561

**121ST LEGISLATURE
SENATE OF MAINE
OFFICE OF THE PRESIDENT**

April 2, 2004

Honorable Joy J. O'Brien
Secretary of the Senate
3 State House Station
Augusta, ME 04330

Dear Secretary O'Brien:

Pursuant to my authority under Title 5, MRSA, Chapter 521, §20065, 3-A, I am appointing Senator Lynn Bromley of Cumberland to serve on the Substance Abuse Services Commission. She will be replacing myself, representing a member of the Senate.

Please let me know if you have any questions regarding this appointment.

Sincerely yours,

S/Beverly C. Daggett

President of the Senate

READ and ORDERED PLACED ON FILE.

The Following Communication:

S.C. 562

**STATE OF MAINE
DEPARTMENT OF AUDIT
66 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0066**

April 1, 2004

Honorable Beverly C. Daggett, Senate President
Honorable Patrick Colwell, Speaker of the House
and members of the State of Maine Legislature

Governor John E. Baldacci

General John W. Libby, Adjutant General

In accordance with 37-B M.R.S.A. § 395, I am pleased to report that the Department of Audit has conducted an audit of the financial records of the Maine Military Authority. We audited the compliance of the Maine Military Authority with the types of compliance requirements described in the U.S. Office of Management and Budget (OMB) Circular A-133 Compliance Supplement that are applicable to the Readiness Maintenance Center Grant for the year ended June 30, 2003. In addition, we substantiated the financial records as they are recorded in the State of Maine's accounting system.

Maine Military Authority activities

The Maine Military Authority was established as a body corporate and politic and an instrumentality of the Maine National Guard. Currently, legislation has been introduced that would re-structure the Maine Military Authority as an enterprise fund of the State of Maine. This legislation was introduced to facilitate the execution of for-profit contracts between the Maine Military Authority and other branches of the military.

The Maine Military Authority was created to recondition military vehicles, on behalf of the federal National Guard Bureau, in accordance with the terms of the Readiness Maintenance Center (Loring Rebuild Facility) Grant. These vehicles are shipped to Maine from all over the United States (and in some instances from foreign governments) and are rebuilt by Maine Military Authority employees. The refurbished vehicles are returned to their respective owners and the Maine Military Authority is reimbursed through the Maine National Guard by the federal government for actual costs incurred. The expenditures of this program for the fiscal year ended June 30, 2003 totaled \$13.4 million.

The Maine Military Authority was also established to enter into contracts with other military branches for refurbishing equipment that would allow for mark-up over the actual cost incurred. The potential profits that could be generated by these contracts would be earmarked for expenditures as set forth by 37-B M.R.S.A. § 399.

In addition to the primary objectives of the current and future reconditioning programs, Maine Military Authority also provides equipment storage services to other branches of the military. At present, contracts for storage are significantly smaller than the reconditioning activities, totaling \$147,592 during the fiscal year ended June 30, 2003.

Findings and Recommendations:

1) Finding: Inadequate internal control over cash management

The Maine Military Authority and the Department of Defense, Veterans and Emergency Management did not minimize the amount of time between the receipt of federal cash and

associated expenditures as required by 31 CFR 205.20. In addition, daily cash balances fluctuated between excessive negative and positive amounts throughout the year, indicating insufficient cash management controls.

Recommendation:

We recommend that the Maine Military Authority and the Department of Defense, Veterans and Emergency Management implement a cash management system with appropriate controls that would ensure compliance with federal cash management requirements.

2) Finding: Inadequate controls over grant accountability

The Maine Military Authority did not periodically reconcile revenues, expenditures and cash balances recognized in the State's accounting system to amounts reported to the federal government. Title 32 CFR 33.20 (a)(3) states, "Effective control and accountability must be maintained for all grant and subgrant cash..." Controls over the tracking of grant account activity for the Readiness Maintenance Center grant were in need of improvement during fiscal year 2003.

Recommendation:

We recommend that the Maine Military Authority and the Department of Defense, Veterans and Emergency Management implement a grant accountability system with appropriate controls that would ensure compliance with the grant requirements.

3) Finding: Inadequate internal controls over suspension and debarment certifications

The Maine Military Authority and the Department of Defense, Veterans and Emergency Management did not obtain signed certifications for any of the four vendors exceeding the established threshold for the fiscal year ended June 30, 2003. Title 32 CFR 25.510(b) states, "each participant shall require participants in lower tier covered transactions to include the certification in Appendix B to this part for it and its principals in any proposal submitted in connection with such lower tier covered transactions." All contracts with vendors for over \$25,000 require a signed certification. However, we noted that none of the four vendors in question appear on the listing of suspended and debarred parties provided by the federal government.

Recommendation:

We recommend that the Maine Military Authority and the Department of Defense, Veterans and Emergency Management implement a suspension and debarment certification system with appropriate controls that would ensure compliance with the certification requirements.

I would be pleased to answer any questions that you may have.

S/Gail M. Chase, CIA
State Auditor

READ and ORDERED PLACED ON FILE.

The Following Communication:

S.C. 563

**121st LEGISLATURE
COMMITTEE ON
EDUCATION AND CULTURAL AFFAIRS**

April 5, 2004

The Honorable Beverly C. Daggett
President of the Senate
The Honorable Patrick Colwell

Speaker of the House of Representatives
121st Legislature
State House
Augusta, ME 04333

Dear Madam President and Mr. Speaker:

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings of the Joint Standing Committee on Education and Cultural Affairs from the review and evaluation of the Maine Health and Higher Education Facilities Authority under the State Government Evaluation Act. In its review, the committee found that the Maine Health and Higher Education Facilities Authority is operating in accordance with its statutory authority and is meeting its statutory and administrative mandate.

Sincerely yours,

S/Senator Neria R. Douglass,
Senate Chair

S/Representative Glenn A. Cummings,
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication:

S.C. 564

**121st LEGISLATURE
COMMITTEE ON
EDUCATION AND CULTURAL AFFAIRS**

April 5, 2004

The Honorable Beverly C. Daggett
President of the Senate
The Honorable Patrick Colwell
Speaker of the House of Representatives
121st Legislature
State House
Augusta, ME 04333

Dear Madam President and Mr. Speaker:

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings of the Joint Standing Committee on Education and Cultural Affairs from the review and evaluation of the Maine Educational Loan Authority under the State Government Evaluation Act. In its review, the committee found that the Maine Educational Loan Authority is operating in accordance with its statutory authority and is meeting its statutory and administrative mandate.

Sincerely yours,

S/Senator Neria R. Douglass,
Senate Chair

S/Representative Glenn A. Cummings,
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication:

S.C. 559

**121ST LEGISLATURE
COMMITTEE ON
APPROPRIATIONS AND FINANCIAL AFFAIRS**

April 1, 2004

Honorable Beverly C. Daggett, President of the Senate
Honorable Patrick Colwell, Speaker of the House
121st Maine Legislature
State House
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

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

- L.D. 164 An Act To Authorize a General Fund Bond Issue in the Amount of \$30,000,000 To Fund Healthy Schools Through the School Revolving Renovation Fund
- L.D. 908 An Act To Authorize a General Fund Bond Issue in the Amount of \$1,000,000 To Provide Funds to Riverfront Municipalities To Develop Riverfront Cultural Heritage Centers
- L.D. 1089 An Act To Authorize a General Fund Bond Issue in the Amount of \$15,000,000 for Energy Conservation in State Buildings and Facilities
- L.D. 1292 An Act To Authorize a General Fund Bond Issue in the Amount of \$20,000,000 for Capital Projects and Major Maintenance at State and Municipal Parks and Historic Sites, for Acquiring Land for Coastal and Inland Waterway Access and for Capitalizing a Revolving Loan Fund for Land Trusts and Municipalities To Acquire Land and Conservation Easements for Public Access

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

Sincerely,

S/Sen. Mary R. Cathcart
Senate Chair

S/Rep. Joseph C. Brannigan
House Chair

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

The Following Communication:

S.C. 560

**121ST LEGISLATURE
COMMITTEE ON
CRIMINAL JUSTICE AND PUBLIC SAFETY**

April 1, 2004

Honorable Beverly C. Daggett, President of the Senate
Honorable Patrick Colwell, Speaker of the House
121st Maine Legislature
State House
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

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

- L.D. 1936 An Act To Amend the Laws Governing Blood Tests for Persons Suspected of Operating Under the Influence

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

Sincerely,

S/Sen. Ethan Strimling
Senate Chair

S/Rep. Patricia A. Blanchette
House Chair

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

The Following Communication:

S.C. 565

**121ST LEGISLATURE
COMMITTEE ON
STATE AND LOCAL GOVERNMENT**

April 1, 2004

Honorable Beverly C. Daggett, President of the Senate
Honorable Patrick Colwell, Speaker of the House
121st Maine Legislature
State House
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

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

L.D. 1941 An Act To Authorize the Town of Millinocket To Annex a Certain Parcel of
Land

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

Sincerely,

S/Sen. Margaret Rotundo
Senate Chair

S/Rep. Janet L. McLaughlin
House Chair

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Ensure the Accurate Counting of Votes"

H.P. 1281 L.D. 1759

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-842).**

Signed:

Senators:

GAGNON of Kennebec
LEMONT of York
MAYO of Sagadahoc

Representatives:

CLARK of Millinocket
GLYNN of South Portland

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

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

Signed:

Representative:

LANDRY of Sanford

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-842)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-842) **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 **MARINE RESOURCES** on Bill "An Act To Implement the Recommendations of the Task Force on the Planning and Development of Marine Aquaculture in Maine"

H.P. 1383 L.D. 1857

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-844)**.

Signed:

Senators:

DAMON of Hancock
PENDLETON of Cumberland
BENNETT of Oxford

Representatives:

BULL of Freeport
ASH of Belfast
PERCY of Phippsburg
MUSE of Fryeburg
McNEIL of Rockland
BIERMAN of Sorrento
RECTOR of Thomaston

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-845)**.

Signed:

Representatives:

SULLIVAN of Biddeford
DUGAY of Cherryfield

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-844)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-844) AS AMENDED BY HOUSE AMENDMENT "A" (H-847)** thereto.

Reports **READ**.

Senator **DAMON** of Hancock moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-844)** Report, in concurrence.

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

Senator **BENNETT:** Thank you, Madame President and fellow members of the Senate. I wasn't surprised that the Senator from Hancock, Senator Damon, didn't speak further on this matter. With characteristic modesty, he failed to recognize the significant accomplishment that he led in dealing with this difficult issue on aquaculture from the Marine Resources Committee. This is an issue that has been with us, in the Marine Resources Committee, for the last year. It's a very contentious issue. There are a lot of competing stakeholders, people, needs, and interests regarding aquaculture in Maine. It's an important industry to our future, and likewise, Maine's coast and the competing uses of Maine's coast. I just want to congratulate the Senator from Hancock, Senator Damon, in working this bill so insidiously and coming up with something which is a real work of coconscious that will contribute a lot of harmony to the coast and the competing desires and aspirations of Maine's people. I commend this report to you and encourage your favorable vote. Thank you, Madame President.

On motion by Senator **DAMON** of Hancock, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-844)** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-844) **READ**.

House Amendment "A" (H-847) to Committee Amendment "A" (H-844) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-844) as Amended by House Amendment "A" (H-847) thereto, **ADOPTED**.

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

Senate

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Ensure Disclosure of Prescription Drug Prices"

S.P. 736 L.D. 1890

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-496)**.

Signed:

Senators:

BRENNAN of Cumberland
MARTIN of Aroostook

Representatives:

EARLE of Damariscotta
CRAVEN of Lewiston
KANE of Saco
PERRY of Calais
WALCOTT of Lewiston

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

Signed:

Senator:

WESTON of Waldo

Representatives:

SHIELDS of Auburn
CURLEY of Scarborough
CAMPBELL of Newfield
LEWIN of Eliot

Reports **READ**.

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

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

SECOND READERS

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

House

Resolve, Directing the Commissioner of Marine Resources To Review the Issues Associated with the Issuance of a Nonresident Lobster License

H.P. 1455 L.D. 1955

READ A SECOND TIME.

On motion by Senator **DAMON** of Hancock, Senate Amendment "A" (S-494) **READ** and **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-494), in NON-CONCURRENCE.

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 Amend the Laws Relating to Corporations, Limited Partnerships, Limited Liability Companies and Limited Liability Partnerships

H.P. 1289 L.D. 1767
(C "A" H-771; H "A" H-819)

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 Implement the Recommendations of the Community Preservation Advisory Committee Regarding the State Planning Office's Review of Growth Management Programs
S.P. 744 L.D. 1900
(C "A" S-461)

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 Promote Decision Making Within the Workers' Compensation Board
S.P. 750 L.D. 1909
(C "A" S-458)

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.

Acts

An Act To Amend the Licensing Laws for Hearing Aid Dealers and Fitters
S.P. 747 L.D. 1908

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

An Act Regarding Wildlife Habitat Conservation

H.P. 604 L.D. 827
(C "A" H-799)

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 (#323)

YEAS: Senators: BENNETT, BLAIS, BRENNAN, BROMLEY, BRYANT,
CARPENTER, CATHCART, DAMON, DAVIS, DOUGLASS,
EDMONDS, GAGNON, GILMAN, HALL, HATCH, KNEELAND,
LAFOUNTAIN, LEMONT, MARTIN, MAYO, MITCHELL, NASS,
PENDLETON, ROTUNDO, SAVAGE, SAWYER, SHOREY,
STANLEY, STRIMLING, TREAT, TURNER, WESTON,

WOODCOCK, YOUNGBLOOD, THE PRESIDENT - BEVERLY C. DAGGETT

NAYS: Senators: None

35 Senators having voted in the affirmative and no 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.

An Act To Improve Subdivision Standards

H.P. 1195 L.D. 1617
(C "A" H-792)

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 (#324)

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

NAYS: Senators: BLAIS, DAVIS, SHOREY, WESTON, WOODCOCK, YOUNGBLOOD

29 Senators having voted in the affirmative and 6 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.

An Act To Establish the Maine Jobs, Trade and Democracy Act

H.P. 1337 L.D. 1815
(C "A" H-783; H "A" H-801)

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

An Act To Recruit and Retain College Graduates through Loan Repayment

H.P. 1387 L.D. 1864
(C "A" H-794)

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

An Act To Protect Health and the Environment by Improving the System for the Collection and Recovery of Mercury-added Thermostats

H.P. 1407 L.D. 1901
(C "A" H-806)

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 (#325)

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

NAYS: Senators: None

35 Senators having voted in the affirmative and no 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.

Resolves

Resolve, Directing the Joint Standing Committee on Taxation To Study the State's Participation in the National Streamlined Sales and Use Tax Agreement and Report Legislation Necessary To Bring the State into Conformity with That Agreement

H.P. 552 L.D. 746
(C "A" H-672)

On motion by Senator **TREAT** of Kennebec, placed on the **SPECIAL STUDY TABLE**, pending **FINAL PASSAGE**, in concurrence.

Resolve, To Implement the Recommendations of the Commission To Study the Scope and Quality of Citizenship Education

H.P. 1417 L.D. 1915
(C "A" H-800)

On motion by Senator **TREAT** of Kennebec, placed on the **SPECIAL STUDY TABLE**, pending **FINAL PASSAGE**, in 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. 1458

**JOINT RESOLUTION MEMORIALIZING THE FEDERAL GOVERNMENT
TO NOT CUT THE BUDGET FOR EMERGENCY RESPONDERS**

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

WHEREAS, after September 11, 2001, the Federal Emergency Management Agency, under the Department of Homeland Security, administered grants to assist local fire departments and emergency responders across the Nation with necessary funds to upgrade and prepare; and

WHEREAS, last year, Maine emergency responders received \$10.3 million in grants and hundreds of thousands of dollars have been provided to 23 Maine communities for their fire departments, which have purchased new protective fire-fighting clothing, training programs and materials, air compressors, vehicles and computers; and

WHEREAS, the current proposed federal budget calls for a reduction in funding of the grants from \$750 million to \$500 million, which will adversely affect communities throughout the State at a time when fire departments are still greatly in need of support; and

WHEREAS, these proposed cuts come at a time when safety and security concerns in Maine and in the Nation are still at a very high level, and the proposed cuts come at a time when we should be remaining vigilant in preparing for emergencies; now, therefore, be it

RESOLVED: That We, your Memorialists, urge the President of the United States and the Congress to work together on this budget and to not cut the Federal Emergency Management Agency's funding source; and be it further

RESOLVED: That We, your Memorialists, urge the President of the United States and the Congress to work together to help ensure that the emergency responders in the State of Maine and throughout the Nation are fully equipped, trained and funded and ready to face all emergencies; 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, the President of the United States Senate and 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 and **ADOPTED**, in concurrence.

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Amend the Maine Criminal Code and Motor Vehicle Laws as Recommended by the Criminal Law Advisory Commission"

H.P. 1370 L.D. 1844

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-853)**.

Signed:

Senators:

STRIMLING of Cumberland
CARPENTER of York

Representatives:

BLANCHETTE of Bangor
GROSE of Woolwich
MILLS of Farmington
GERZOFKY of Brunswick

CHURCHILL of Washburn
LESSARD of Topsham

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-854)**.

Signed:

Representatives:

MAIETTA of South Portland
SYKES of Harrison
GREELEY of Levant
SNOWE-MELLO of Poland

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-853)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-853)**.

Reports **READ**.

On motion by Senator **STRIMLING** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-853)** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-853) **READ** and **ADOPTED**, in concurrence.

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

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

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the following Tabled and Later (3/4/04) Assigned matter:

SENATE REPORTS - from the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act to Define a Scope of Practice for Acupuncture"
S.P. 97 L.D. 263

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-414)** (12 members)

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

Tabled - March 4, 2004, by Senator **BROMLEY** of Cumberland

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

(In Senate, March 4, 2004, Reports **READ**.)

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

Senator **BROMLEY**: Thank you, Madame President. This bill has been hanging around in the back of the calendar for a little while so I thought I'd just remind people what it does and what it doesn't do. First of all, it does not establish a new board. It has no fiscal impact. It is not an expansion of the scope of practices. One might ask, why is it here? Last session the acupuncturists came to us and asked that their scope of practice be defined in law for various reasons. It triggered a discussion with some other allied health professionals as to whether or not what they were asking was, in fact, an expansion of what they did. As many of you who have served on the Business, Research and Economic Development Committee know, that triggers the process of a sunrise review. The purpose of a sunrise review is to look at this issue and decide whether it does expand the scope of practice, is the public protected adequately, and so on. The committee requested that the commissioner perform this review. I will let you know what the findings were.

The commissioner made two central conclusions; that acupuncturists are all ready able to perform oriental medicine under their current scope of practice, and as long as they don't encroach on other professions, it was decided that this was not an expansion of the scope. The risks associated with this, the commissioner found that there were no risks to public safety and acupuncturists could continue doing what they were doing.

One might ask, why do we need this? I agree with the commissioner, this is not an expansion of practice, but the practitioners, themselves, bring to us an issue that is not within the purview of the commissioner. It is that they have difficulty getting mal-practice insurance if, in fact, what they do is not defined in statute. In fact, none of the six mal-practice insurance carriers in the state will write policies for acupuncturists unless the modality of what they actually do is covered in the statutes.

That is what this bill does. Again, there is no fiscal impact. It's not expanding their scope of practice. It's not establishing a board that doesn't already exist.

Same Senator requested a Division.

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

Senator **SHOREY**: Thank you, Madame President, men and women of the Senate. I am that one on this twelve to one report. The reason is that I think it is very important that we look at this bill and this amendment and what it does.

First of all, the good Senator from Cumberland, Senator Bromley, is correct in her description of the process. We went through and asked the department to make a recommendation. The recommendation from Commission Murray's sunrise review was that the state should not license oriental medicine. I quote, 'should not license oriental medicine.'

I know many of you have been lobbied by the acupuncturists in your districts who may have convinced you to support this bill and you may be predisposed to support it. I ask you to listen to me for a few minutes and take the bill out, take the amendment out. It's Committee Amendment "A" (S-414). Read what it does. Ask yourselves if we are here to support a few acupuncturists in our districts or are we here to protect the people in the State of Maine? I have acupuncturists in my district who have contacted me. Being on a twelve to one report, believe me, you get a lot of phone calls. I'm here to protect the people of the State of Maine.

The way this is written, it would permit licensed acupuncturists, and I quote from the amendment, 'to diagnose and treat illness, injury, pain, and other conditions by regulating the flow and balance of energy to restore and maintain health.' Licensees would accomplish such energy regulation through: 'oriental diagnostic procedures; electrical and magnet stimulation; moxibustion and other forms of heat therapy; sound, light, and vibrational therapy; cupping techniques and gua sha; recommendations and dispensing of Chinese patent remedies or Chinese premade herbal remedies and lifestyle and dietary counseling.' Please remember that because I want to get back to that in a few minutes. 'Formulation and dispensing of custom-made Chinese herbal combinations; sotai; shiatsu; gi gong; zero balancing; tui ni; and acupressure.'

These techniques are not acupuncture. The public should not be led to believe that they are. By licensing the acupuncturist to do this, we are saying to the public the State of Maine believes that these things that I listed qualify these people to heal you. You don't need to go see a doctor. You don't need to get anything else. The State of Maine believes, by licensing, all these things are good things. By passing this bill and voting for it, you, personally, are endorsing each and every one of these procedures. You are telling your neighbors, 'Don't go to a doctor, go to an acupuncturist to perform these procedures.' I believe that public health and safety will be compromised if patients are encouraged to pursue these techniques while delaying a medical diagnosis.

I recently saw in the Consumer Report that there are a lot of things going on right now with supplements. I encourage you to read the Consumer Report to look this up. A lot of experts believe that a lot of these are too dangerous to be on the market. They specifically mention these pre-made Chinese herbal patent remedies. They are saying that there are no tests on them. There are hidden

hazards for consumers, especially among products that aren't in the headlines. Consumers are provided with more information about the composition and nutritional value of a loaf of bread than the ingredients or potential hazards of botanical medicines. What we are doing by licensing these natural products for them to dispense, I believe, is putting the people in the State of Maine at risk.

You may have told your local acupuncturist that you would support this, and they may want you to do this, but I just don't see how it works. Also, if you look at the amendment, there is a contradiction in here. It lists all the things the acupuncturist can do and then a little later, on number four, it says, 'Practice by other persons. The listing of allied techniques and modalities in subsection 2, including acupressure and' I'm not going to go through the whole list again. It says, 'May not be construed to require any person who practices the same or similar techniques or modalities to obtain a license.' What we are saying is that we will license an acupuncturist to do this and the State of Maine is going to endorse all these things but yet someone else just off the street can say, 'I can do these things for you also and they must be good for you because the State of Maine endorses them.' It doesn't make any sense. It's a bad amendment. It's a bad bill. That is why I voted against it. I would encourage each and every one of you to also look at the bill and think about it. Just because it's one or two people in your district asking you to vote for it, think about everybody else in your district.

Same Senator 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 think the good Senator from Washington, Senator Shorey, made a lot of good points. I think we need to put this in context. One point that he talked about was protecting the public and how it is our job here to protect the public. Certainly our job here is to protect the public, but I remember reading history when I was younger and the conventional wisdom, at one point, in conventional medical treatment was using leaches. We thought that helped cure people. Leaches. We also thought at that time that it didn't matter what you ate or what you drank in terms of your physical well-being. We know today that leaches are not a very good, sound medical practice. We also know today that what you eat and what you drink has a dramatic impact on your well-being.

Alternative methods of looking at medical care are not witchcraft, they are not sorcery, and in many instances, they are the only legitimate alternative available to people. There is not a day, a week, or a month that goes by that you or I don't pick up the newspaper and there isn't another study, another rigorously conducted study, that has conflicting outcomes in terms of what we should do in terms of our healthcare. The American Medical Association, in their standards when they look at alternative medicine, call for rigorous studies when looking at whether or not alternative medicines are effective. Again, we know from research that we read about almost every week that we have conflicting reports.

I think that this is a legitimate bill. This is a legitimate opportunity for people to recognize that there are alternatives available to them that may not be accepted within conventional medicine, but may be the best alternative for them now. I urge you to support the pending motion.

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

Senator **SHOREY:** Thank you, Madame President, men and women of the Senate. Not to prolong the issue, but I'd like to share with you a story of Donna Wheaton, age 40, from Cranston, Rhode Island. Ms. Wheaton's acupuncturist prescribed more than a half dozen Chinese herbal supplements to treat health conditions. At least one of the products listed Aristolochia as an ingredient even after the FDA issued a nation-wide safety warning in 2001. She underwent a kidney transplant in 2002 and must take anti-rejection drugs for life.

These need to be studied. There is nothing wrong with studying them. I don't think the State of Maine should be endorsing this. Thank you.

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

Senator **BROMLEY:** Thank you, Madame President. I was pretty sure the Senator from Washington, Senator Shorey, was going to mention moxibustion and I don't know what it is. I do know that acupuncturists are already, by current statute without this bill, allowed to do that. This bill won't keep them from doing moxibustion.

I want to read a couple of lines from the sunrise review from the commissioner. It says, 'The department did not receive, nor is the department aware, of documented health or safety concerns related to the use of the additional types of oriental treatment techniques.' There was no allegation of the dangers the good Senator from Washington, Senator Shorey, refers to in any of the

supporting materials provided by various allied health professionals. Furthermore, our recommendation is that the proposed expansion of the license for acupuncturists scope of practice is unnecessary. This does not mean that they shouldn't be doing those things, it means that they can already do those things. We don't want to imply that we are not allowing practitioners of these methods of oriental medicine to continue to provide those services. To be clear, it is our view that licensed practitioners of acupuncture should be free to engage in their profession without limitation or restriction. Thank you.

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.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Bromley 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 (#326)

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

NAYS: Senators: BLAIS, DAVIS, GILMAN, KNEELAND, NASS, SAVAGE, SHOREY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

24 Senators having voted in the affirmative and 11 Senators having voted in the negative, the motion by Senator **BROMLEY** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-414) **READ** and **ADOPTED**.

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

Sent down for concurrence.

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later (3/18/04) Assigned matter:

Bill "An Act To Protect Maine's Coastal Water"

S.P. 378 L.D. 1158
(C "A" S-429)

Tabled - March 18, 2004, by Senator **MARTIN** of Aroostook

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-429)**

(In Senate, March 18, 2004, **READ A SECOND TIME**.)

On motion by Senator **MARTIN** of Aroostook, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-429).

On further motion by same Senator, Senate Amendment "A" (S-497) to Committee Amendment "A" (S-429) **READ**.

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

Senator **MARTIN:** Thank you, Madame President and members of the Senate. You've noticed that this particular item has been tabled for approximately three weeks. Finally we have the amendment that works. I guess that's one way to put it. We have to go back to two bills that we introduced last year that attempted to deal with this issue. One was by the Senator from Cumberland, Senator Brennan, and one was by a House member who is also from the city of Portland. This is to deal with the issue of cruise ships and discharges that occur on cruise ships. You need to know that we thought we had a solution and then it became clear, as the industry came to see us, that the new cruise ships that will now be coming along the coast of Maine has a new discharge system which actually has on-board a sewer system operating like a municipal system does. By the way, the first one will actually be coming to Bar Harbor this summer. These systems have a continual operation to it and don't have the ability to hold the waste that occurs. If you read the amendment you will see what we have done with that particular item is copied the Alaska Law, which has now been agreed to under an agreement with the federal government, the State of Alaska, and the industry.

In addition, the amendment does one other thing, it will prevent the discharge of gray water anywhere along Maine's coast. As you may or may not know, the federal government does not allow the state to control black water. Kind of strange, but that's the federal law. What this amendment does is control the gray water as well as control the combined gray and black water, which we can do. In that regard, what we are doing with the bill, as amended, is saying that no one can discharge the gray or combination of gray and black water within the three mile limit of the State of Maine, which we control.

The second part of the amendment is what I described earlier and deals with the new systems that have been installed in the cruise ships. I believe the Queen Mary II will be the first ship coming to Maine for the first time with this new system. I believe we now have agreement from everyone that this is the way to go.

On motion by Senator **MARTIN** of Aroostook, Senate Amendment "A" (S-497) to Committee Amendment "A" (S-429) **ADOPTED**.

Committee Amendment "A" (S-429) as Amended by Senate Amendment "A" (S-497) thereto, **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-429) AS AMENDED BY SENATE AMENDMENT "A" (S-497)** thereto.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (3/29/04) Assigned matter:

HOUSE REPORTS - from the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Reestablish the Great Ponds Act" (EMERGENCY)

H.P. 1251 L.D. 1675

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

Minority - **Ought to Pass** (2 members)

Tabled - March 29, 2004, by Senator **BRYANT** of Oxford

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

(In House, March 25, 2004, Reports **READ** and the Bill and accompanying papers **COMMITTED** to the Committee on **INLAND FISHERIES AND WILDLIFE**.)

(In Senate, March 29, 2004, Reports **READ**.)

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

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (1/19/99) Assigned matter:

SENATE REPORTS - from the Committee on LABOR on Bill "An Act To Increase Maine's Minimum Wage"

S.P. 237 L.D. 673

Majority - Ought to Pass as Amended by Committee Amendment "A" (S-359) (8 members)

Minority - Ought Not to Pass (4 members)

Tabled - March 31, 2004, by Senator **EDMONDS** of Cumberland

Pending - motion by same Senator to **RECEDE**

(In Senate, March 11, 2004, Reports **READ**. Motion by Senator **EDMONDS** of Cumberland, to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report **FAILED**. Subsequently, the Minority **OUGHT NOT TO PASS** Report **ACCEPTED**.)

(In House, March 30, 2004, 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-359)**, in **NON-CONCURRENCE**.)

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

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

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

Senator **HATCH:** Thank you, Madame President, ladies and gentlemen of the Senate. I'd ask that you support the majority Ought to Pass report so that I can offer another amendment on this, which I think you might find a little better. Thank you very much.

Same Senator requested a Roll Call.

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

Same Senator requested a Division.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#327)

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

ABSENT: Senator: TURNER

16 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **BLAIS** of Kennebec to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE, FAILED**.

On motion by Senator **HATCH** of Somerset, 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 Somerset, Senator Hatch 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 (#328)

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 **HATCH** of Somerset to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-359) **READ** and **ADOPTED**, in concurrence.

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

On motion by Senator **HATCH** of Somerset, Senate Amendment "A" (S-491) **READ**.

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

Senator **HATCH:** Thank you, Madame President, ladies and gentlemen of the Senate. All this amendment does is decrease the amount of the increase called for in the original bill. It changes the current \$6.25 to \$6.50 in two steps. The first step is 10¢ and 15¢ in the second. It's a very small step. It's mostly directed at the big box stores and places like McDonald's. It would give wait staff 12.5¢. We're talking about restaurant workers who only make half of the minimum wage. I would ask for your support on this and I would appreciate it. Thank you very much.

On further motion by same Senator, 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 Kennebec, Senator Blais.

Senator **BLAIS:** Thank you, Madame President, men and women of the Senate. I was going to just let this go, but I think it is important for me to say something about this because I realize that the

object of the amendment before us is to lessen the extensible impact of this legislation. I think that we had a good vote, a reasonable vote on this, the first time it was before this body. I see that the amendment before us has changed some minds. I do want to remind the body, on the record, that all of us, our state, our businesses, individuals, everybody, is going through tough economic times in our state right now. The net effect of this type of legislation, whether it is 1¢ or 10¢ or 50¢ or whatever it may be, is going to impact Maine's small businesses and Maine's young people the most. Those are the ones who are going to be most impacted by this. That means that Mom and Pop operation where you've got a husband and wife that are running a small store and they can afford to hire two or three young people, high school age people, to work for them, the net effect of this type of legislation, statewide, on those businesses is that they are going to have to make a decision as to whether they can afford to employ three or afford to employ two people. I think this sends a very bad message at this particular time to the businesses in this state.

I'll just give you an example of a business I used to be in, the restaurant business. For most small restaurants, you are lucky if you make any profit at all. Most don't make any profit. What they do, if they are able, is pay themselves. When times get tough, like they are right now, that means that if you have got a husband and wife working in that business, in order to keep people employed, one of those members of that family tends to drop their salary first before they cut their staff. I can tell you that from personal experience. If you ask the Maine Restaurant Association what a typical restaurant, an average restaurant that actually makes a profit it's between 3% and 5%. That's for a restaurant that is doing well in this state. Between 3% and 5%. Bear in mind that the meals and lodging tax on restaurants is 7%. The state is taking more money right off the top for those types of small businesses than they can even hope to make as a profit. Most of them don't even make a profit.

Everyone is stretched to the bone right now. So we increase the minimum wage. Where is that money going to come from? As my good colleague from Penobscot, Senator Sawyer, is fond of saying, there is no gold bar in the safe that we can just go and scrape a little bit more off for those small businesses. It's going to have to come from some place. Does that mean it comes out of employee wages? Employee benefits? We've got a very important piece of legislation that is going to be taking effect on July 1st, healthcare legislation called Dirigo Health. If those employers have less money to spend on employee benefits does that mean that our vote today may impact the ability of those employers to be able to afford to participate in Dirigo Health? I think it's worth thinking about.

My colleagues, I would urge you to support the motion that is on the floor for the very reason that it's going to reduce the overall impact. I don't know if you folks over there on the other side of the aisle will. I won't be supporting it because I won't support any increase in the minimum wage. I do think it's important, given that we've already passed the majority Ought to Pass report, that we lessen the impact on our state's employers. It's the best that I can possibly do. However, I will not be supporting any increase in the minimum wage at this time. Thank you.

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

Senator **SHOREY:** Thank you, Madame President, men and women of the Senate. The good Senator from Kennebec, Senator Blais, mentioned that the message is sent. The message that is being sent to the business community throughout the country is that Maine raises minimum wage again. They are not going to look at how much it was raised by. They are not going to look at whether it is 10¢ or 50¢. The perception is reality. The reality is Maine is hostile to business. Thank you.

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

Senator **BRYANT:** Thank you, Madame President, ladies and gentlemen of the Senate. I just want to make one small comment. I think it is important for the legislature in the State of Maine to also tell the workers and the people that are out there trying to make enough money to survive in the State of Maine that work is going to pay. I think we are in a situation where we are not moving the smaller wage up enough so that a person can make a living, so we end up subsidizing them through the state. I think this is a small movement, but it is a necessary one. I think people need to know that work is going to pay. I would encourage you to vote for the pending motion.

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

Senator **WESTON:** Thank you, Madame President, men and women of the Senate. I'd like to tell you a story. I have a small greenhouse business in my district. Throughout the years he has battled one issue after another while trying to stay in business, mostly with things that we pass from this building. He called me just three days ago and said, 'I no longer employ the high school students

from Mt. View High School. Not that I didn't want to, but I finally reached the point that I can't deal with this any more. I want you to come up and see my new employee replacement. It's nailed to the wall and it does the work of the five high school students. I don't have to deal with the changes every year that you send me. I don't have to pay Workers' Comp for this machine. It's dependable. I can run it any time. It does the work of the five kids that used to have spending money.'

Messages are important. They build on each other and become stronger. These few cents that we are adding isn't going to really make the difference in someone's life. In my opinion, it could impact their entire job. That is why I'm not supporting this. Thank you.

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

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. I, too, have a story. In my district I, as you do, go door-to-door. I met a couple in one of my towns, both of whom were earning minimum wage, both of whom brought home 40 hours a week and any overtime they possibly could at minimum wage, and could not pay to live in the mobile home park that they lived in, to support their children, to pay the lot rent, etcetera.

This is a very modest increase in the minimum wage. There are 15,000 people in the State of Maine presently earning between \$6.25 an hour and \$6.65 an hour. If we are able to add any amount to that, that money goes directly into Maine's economy. These people are not socking it away in some savings account. They are paying their bills with it. Every bill they pay out of their hard earned dollars means they don't have to go to the Town of Brunswick or the Town of Freeport or the Town of Yarmouth and ask for general assistance aid. It means they have the pride of spending the money they earn to pay their bills. I just think this is a totally modest and appropriate amount to give these folks who are working as hard as anybody else; anybody who earns \$100,000 or \$150,000. They don't work any harder than the person who is working for minimum wage. I urge you to support the pending motion. Thank you.

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

Senator **MARTIN:** Thank you, Madame President and members of the Senate. All of us have our own stories and our own things that we can talk about when we talk about minimum wage. I'm just going to relate three of them to you.

One of the towns that I represent happened to have MBNA move in. The irony is that the people who were really concerned were the small store owners because they were paying minimum wage. All of a sudden the competition is going to be starting at \$8. That became the cry in the community, which I thought was interesting. Low and behold, the company came and paid \$8 as a starting wage. Guess what? The salaries of those very same students went up in the grocery stores. They are still there.

I want to talk about an article in the paper this morning. We are worried about out-of-state corporations saying, 'Don't come to Maine because salaries are going up again.' Someone ought to talk to the people in Caribou as a factory closes and the jobs are going to the Dominican Republic. If that's not out-of-state I don't know what is. Do they care about us in Maine? Never have, never will. They are about their bottom line and if they can give salaries for \$1 an hour to pay their employees that is exactly what they are going to do.

Third, I can tell you about a single mother who has three jobs. She refuses to get on any kind of state program. All three of those jobs are paying her minimum wage. There has to be a better way. If this is the only way we can do it, then I say we ought to at least try.

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

Senator **WOODCOCK:** Thank you, Madame President. Compelling stories all. Nobody's speech this morning will sway a single vote. I make that observation. We're going on record today. The rhetorical question that needs to be asked in response to many of the comments made this morning is what workers? As the good Senator from Penobscot, Senator Sawyer, has told me many times in our discussions, privately, in order to have well paid employees, one must have employers who will pay well. I know that for a long time in this state, from my perspective, we have discouraged employers. Some will move because of federal regulations. Many will move because they have other business opportunities that are more frugal in other states in the union. Today we will just settle ourselves in to this minimum wage vote. The outcome is probably assured. However, I would again pose a rhetorical question. What workers? It is an important issue for us to consider, twenty years from now, when our grandchildren consider whether or not they are going to be in Maine as a place of residence. Thank you.

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

Senator **STANLEY:** Thank you, Madame President, ladies and gentlemen of the Senate. I'm going to tell you a story too. I came to the Senate side of this building a year-and-a-half ago and I was appointed chair of the Taxation Committee. One of the things that I've heard for the last year and four or five months; 'is why is our tax problem the way it is?' It is because of low wages. I know this is a minor thing. I also know that we, as a state, have a tax problem. One of the main things that we have to do is bring up our wages. I sat here at a forum in January where two of the speakers on a panel said livable wages is one of the things we have to deal with in order to get us from number one to the middle of the pack. I think that we, as a state, should be looking at that factor. As everybody in this building and sitting here knows right now, you're talking 1¢ on the sales tax, spending caps, and everything else underneath the rainbow. The one thing that you can do in this state to improve your rating is to have livable wages. This is just a small part of what we have to do in order to do that.

Speaking on that note, I think that where we have such a tax situation, one of the things we can do to promote economic development and growth in this state is by doing some of the tax reform policy to address issues to help small businesses. By raising the minimum wage this amount is not that bad because you want to look at some of the businesses that are using the minimum wage and what they are offering. The Wal-Marts. They have 15 to 20 hours a week jobs. These are some of the people who are doing it. Ten to fifteen thousand people are affected by this. What we basically have to do is to do some things to bring our economy to the point where people can live off these wages. That's what we need to do.

Here is a perfect example; a person working for the Great Northern Paper Company got laid off. He was making more money on unemployment than by working for minimum wage. There's nothing wrong with that. That's just the way the system is. The problem that we have is that these low wages are what are driving us to the point where we have a tax problem. This legislature is committed to doing tax reform because everybody out there has got a plan. Everybody in this building knows it.

What they have to address is that they have to have a plan that does do the right thing and not raise the tax, put a spending cap, or whatever it is they are thinking of doing. The thing you have to do is hit the problem. This is the problem, low wages in the state. That is the problem. I know this is my commitment, we will help people and we help the state. That is why we are going to solve the tax reform problem as an issue. This is a fact that we have to really be concentrating on, livable wages. I know I've sat here for a-year-and-a-half and have been talking about this for a year-and-a-half. It is something we have to do. I don't know what we have to do to get it through, but I'll tell you, you can do everything else you want, but until you start addressing the issue of low wages in this state, we're going to be in the same predicament we are regardless of whether we change everything. Low wages is driving us to the number one rating.

I know this is a little bit off the subject, but it is one step that Maine has to take to improve their rating in the history of low tax reform. That is why I'm standing up here today. I've lived with this for a year-and-a-half. This is what I've heard for a year-and-a-half. Also I've heard the business side and I think there is room to move on that side to help the small businessperson in this state, too. We have to be in a position to be able to do some of these things that we have to bring our wages up. With that being said, I wish you would support the pending motion.

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

Senator **SHOREY:** Thank you, Madame President, men and women of the Senate. When the good Senator from Aroostook, Senator Martin, first stated talking I thought he was going to switch his vote. What he was talking about is market conditions. When he talked about a new employer coming in and driving wages up, that is market conditions. That is what I advocate, not legislation. He also mentioned that the small store owners were concerned that they wouldn't be able to pay their employees the higher wages that would be paid by the competition. Well, of course they were able to. New dollars were coming into the community. What new dollars are we bringing into the State of Maine by doing this? I would suggest absolutely none.

Secondly, the good Senator from Penobscot, Senator Stanley, if I heard him correctly and I apologize if I didn't, suggested that we can solve our tax problem by legislating higher wages for everybody. To me that doesn't make sense. If that is the case, why don't we put an amendment on this, make the minimum wage \$100 an hour so everybody can make \$4,000 a week. They are going to make \$200,000 and we can tax them at 16.5%. Let's see, how much money will that bring into the state? Hey, we don't have a budget problem any more. That just doesn't make sense. Thank you.

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

Senator **STRIMLING**: Thank you, Madame President. I just can't believe some of what I am hearing. We're talking about 10¢. We're talking about \$200 a year for a family. That's like \$17 a month. That's an extra gallon of milk a week. We're disputing whether that is appropriate to provide for our families. I can't believe it.

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

Senator **BLAIS**: Thank you, Madame President, men and women of the Senate. I appreciate the remarks from my colleague from Cumberland, Senator Strimling. I'd like to try and address that. The fundamental issue really is jobs. If you don't have a job at all, you can't afford to buy even one gallon of milk. We had the opportunity to listen to a lot of stories here today. I think that this is appropriate. Let me inject into this discussion a few facts.

Maine's minimum wage is currently 9th highest in the nation. We know that Maine's economic performance per capita is 44th in the nation. We know that Maine ranked 48th in the 2003 Small Business Survival Index.

The good Senator from Penobscot, Senator Stanley, suggested that jobs are a critical factor for us. I believe there was a connection made between higher wages and preserving jobs or maintaining jobs. I'm looking at a few other New England states, the states that are higher up. Among those eight that are above us, one of those states is Connecticut, who has a higher minimum wage than Maine's. In fact, Connecticut is third in the nation. Maine's unemployment rate for January 2003, for example, was 4.8%. Connecticut's was 5.2%. Let's look at Massachusetts. Massachusetts' is up above us. They are sixth in the nation. In January 2003 Massachusetts' unemployment rate was 5.6%. Rhode Island is up above us. They are number seventh, with a higher minimum wage, and an unemployment rate at 5.4%.

I'm not going to suggest that there is a direct correlation there. I think that the statistics show and the studies have shown consistently, over the years, that increases in a minimum wage have very little impact on the majority of workers and the people that they do impact are our youngest people, just entering the job force, those folks who have very limited skills and are in entry level positions who are trying to get training to increase their value so that they can move up the rung, move up the ladder of accomplishment and achievement to be able to provide for themselves. What this legislation does, particularly when we're doing it here in Maine and we're raising ourselves so much higher than the rest of the nation, is it makes it more difficult to compete for those good jobs. Thank you, Madame President.

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

Senator **DOUGLASS**: Madame President, men and women of the Senate, I rise in support of the pending motion for a very simple reason. This is really about how we value the work that people in our state do. There is a lot of talk about whether it is more important to have a job or not have one. The problem is that, in today's climate, many of the jobs available are not jobs that provide living wages. I'm proud to have been part of a city council in Auburn that voted in 1998 to support living wages, which at that time were approximately \$9 per hour. What that tells you is that our minimum wage does not provide for the adults who are working for it. In fact, many of them live in poverty. I think we need to say, as a state, that our policy is that we will stand up for the workers of the state and provide a modest increase, although it is not up to the level of being a living wage, for those who work. This is really about what the value is of human labor. You could equate it back to our laws when we outlawed child labor and we adopted labor standards requiring payment above the 40 hour work week. It's really all about what we think our workers are worth. I certainly think they are worth this small increase that is provided for in this bill. I hope you will vote in favor with me.

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

Senator **WESTON**: Thank you, Madame President, men and women of the Senate. I must respond to the last statement about valuing people. I value people. I'm going to use my daughter as an example because she is young, she works in the summer when she's home from college. If I was to put myself in her place and feel valued, if she was offered 10¢ more an hour more by her bosses who own a bed and breakfast she would not consider that a high value. Instead, as a high school student, she was offered to start cleaning those four rooms in that bed and breakfast at \$9 an hour and ended on salary, which was actually comparable to almost \$15. This was not because this body dictated how we value people, but because we have a rising tourism business on the coast and they knew that in order to keep a valuable employee they had to pay. It is that market that can really value and dictate the salaries. If we think we are doing it, then we are being fooled. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Somerset, Senator Hatch to Adopt Senate Amendment "A" (S-491). 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 (#329)

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 **HATCH** of Somerset to **ADOPT** Senate Amendment "A" (S-491), **PREVAILED.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-359) AND SEANTE AMENDMENT "A" (S-491), 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.

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

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **TRANSPORTATION** on Resolve, Regarding Legislative Review of Portions of Chapter 299: Highway Driveway and Entrance Rules, a Major Substantive Rule of the Department of Transportation (EMERGENCY)

H.P. 1443 L.D. 1943

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

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

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

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

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

REPORTS OF COMMITTEES

**House
Ought to Pass As Amended**

The Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Implement the Recommendations of the Commission To Improve Community Safety and Sex Offender Accountability Regarding Public Notification by Law Enforcement"

H.P. 1373 L.D. 1847

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-852)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-852)**.

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

READ ONCE.

Committee Amendment "A" (H-852) **READ** and **ADOPTED**, in concurrence.

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

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

REPORTS OF COMMITTEES

**House
Ought to Pass As Amended**

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Implement the Recommendations of the Legislative Youth Advisory Council"

H.P. 1419 L.D. 1917

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-856)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-856)**.

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

READ ONCE.

Committee Amendment "A" (H-856) **READ** and **ADOPTED**, in concurrence.

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

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

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

RECESSED until 4:00 in the afternoon.

After Recess

Senate called to order by the President.

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

ENACTORS

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

Emergency Measure

An Act To Make Technical Corrections to Maine's Fish and Wildlife Laws

H.P. 1265 L.D. 1743
(S "A" S-464 to C "A" H-781; H
"A" H-834)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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 Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2004-05

H.P. 1398 L.D. 1882
(C "A" H-837)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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 Protection from Harassment Laws

H.P. 1410 L.D. 1906
(C "A" H-840)

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

Senator **WOODCOCK**: Thank you very much, Madame President. I would quickly call attention to a portion of this bill that I find to be objectionable. That is the portion that deletes the requirement that the hearing for a protection from harassment be held within 21 days of the filing of the complaint be eliminated from the law. I'm very strongly opposed to the 21 days provision being eliminated. It would seem to me, quite naturally so, that if you had a protection from harassment complaint being filed against you that you would want a timely resolution to that harassment complaint. Removing the 21 days harassment complaint portion of this bill, to me, extends it well beyond what should be acceptable to anybody who has a complaint filed against them. I would hope that other members of this body feel the same and urge you to oppose this on that ground.

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

Senator **PENDLETON**: Thank you, Madame President, men and women of the Senate. When we discussed this in committee, the 21 days was deleted because with the 21 days being in the law all other things that are scheduled on the docket, more serious cases, have to be set aside because the complaint of harassment case must be done within the 21 days. What was happening is that other items on the judicial dockets were being set aside to accommodate the 21 days rule with the complaint of harassment. Remember, complaint of harassment is not abuse. What we are talking about here is complaining about your neighbor's dog barking all night long or complaining about the neighbor's geese hanging around your swimming pool. That's what we are talking about. Thank you.

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

Senator **WOODCOCK**: Thank you very much, Madame President, ladies and gentlemen of the Senate. I certainly highly respect the good Senator from Cumberland, Senator Pendleton's opinion on this matter. There are, however, other harassment complaints that are far more serious than somebody's goose being complained against. From my perspective, it still remains that you should have a timely resolution to the harassment complaint. To eliminate the 21 days provision simply so the court might be able, I would repeat might be able, to better arrange its docket to me is not acceptable. Thank you.

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

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

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 Provide for a Limited Transition Provision for Renewal of Certain Social Worker Licenses

H.P. 1431 L.D. 1931

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

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

Emergency Measure

An Act To Clarify the Administrative and Financial Relationship between the Maine Military Authority and the State of Maine

H.P. 1451 L.D. 1951

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

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

Mandate

An Act to Promote the Coordination of School Calendars for Career and Technical Education Students

H.P. 1446 L.D. 1946
(H "A" H-826)

Comes from the House, **FAILED PASSAGE TO BE ENACTED**.

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, 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**, in **NON-CONCURRENCE**, signed by the President, and sent down for concurrence.

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

ENACTORS

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

Acts

An Act To Strengthen the Maine Certificate of Need Act of 2002

H.P. 447 L.D. 584
(C "A" H-816)

An Act To Enhance Professionalism of Private Investigators in this State

H.P. 735 L.D. 1014
(H "A" H-832 to C "A" H-249)

An Act To Amend the Laws Governing Campaign Finance

H.P. 984 L.D. 1339
(C "A" H-828)

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 Prohibit the Sale of Water Containing Nicotine

S.P. 587 L.D. 1631
(C "A" S-436)

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 (#330)

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

NAYS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, MAYO, MITCHELL, NASS, SAVAGE, SHOREY, WESTON, WOODCOCK

23 Senators having voted in the affirmative and 12 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.

An Act To Make Principles of Reimbursement for Intermediate Care Facilities for the Mentally Retarded Major Substantive Rules

S.P. 613 L.D. 1681
(H "A" H-811 to C "A" S-434)

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

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

ENACTORS

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

Acts

An Act To Protect the Privacy of Home Information of Maine State Retirement System Members, Benefit Recipients and Staff

S.P. 619 L.D. 1687
(C "A" S-442)

An Act To Enhance Pine Tree Development Zones

S.P. 624 L.D. 1692
(H "A" H-831 to C "A" S-446)

An Act To Amend the Motor Vehicle Laws

S.P. 626 L.D. 1694
(C "A" S-419)

An Act To Ensure Appropriate Care and Custody of Children

S.P. 638 L.D. 1706
(C "A" S-466)

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

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

ENACTORS

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

Act

An Act Concerning Advertising of Business Names in Telephone Directories

S.P. 643 L.D. 1711

(H "B" H-737; H "C" H-827 to C
"A" S-398)

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

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

ENACTORS

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

Acts

An Act To Amend the Penalty Provisions and Reporting Deadlines of the Campaign Reports and Finances Laws

S.P. 661 L.D. 1728

(C "A" S-470)

An Act To Clarify the Severance Pay Law

H.P. 1255 L.D. 1733

(C "A" H-815)

An Act To Improve Quality and Safety in Long-term Care

H.P. 1275 L.D. 1753

(C "A" H-817)

An Act To Reduce Contamination of Breast Milk and the Environment from the Release of Brominated Chemicals in Consumer Products

H.P. 1312 L.D. 1790

(C "A" H-822)

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

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

ENACTORS

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

Act

An Act To Make Minor Substantive Changes to the Tax Laws

H.P. 1335 L.D. 1813
(C "A" H-824)

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

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

ENACTORS

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

Act

An Act To Amend the Laws Governing Purchase of Military Time Served under the Maine State Retirement System

H.P. 1360 L.D. 1836
(C "A" H-839)

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

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

ENACTORS

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

Act

An Act To Coordinate Education, Job Training and Employers in Maine

H.P. 1399 L.D. 1883
(C "A" H-825)

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

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

ENACTORS

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

Acts

An Act To Amend the Laws Concerning Optional Membership for Participating Local Districts in the Maine State Retirement System

H.P. 1332 L.D. 1810
(H "A" H-818 to C "A" H-790)

An Act To Amend the Law Governing the Storage of Spirits

S.P. 729 L.D. 1881
(C "A" S-469)

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 Preserve Transportation Projects Statewide by Using Federal GARVEE Financing for the Waldo-Hancock Bridge Replacement

S.P. 758 L.D. 1922
(C "A" S-478)

At the request of Senator **BENNETT** of Oxford a Division was had. 34 Senators having voted in the affirmative and 1 Senator 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.

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 Modify Taxation of Benefits under Employee Retirement Plans, Including Retirement Plans for Teachers

S.P. 764 L.D. 1927
(C "A" S-481)

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

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

ENACTORS

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

Acts

An Act Relating to Energy-related Building Standards

S.P. 790 L.D. 1948

An Act Relating to Certain Energy Responsibilities of the Public Utilities Commission

S.P. 791 L.D. 1949

An Act To Repeal Certain Boards and Commissions

H.P. 1450 L.D. 1950

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

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

REPORTS OF COMMITTEES

House

Ought to Pass

Pursuant to Statute and Resolve

The Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**, pursuant to the Maine Revised Statutes, Title 3, section 955, subsection 4 and Resolve 2003, chapter 101,

section 1, on Bill "An Act To Implement the Recommendations of the Joint Standing Committee on Business, Research and Economic Development Regarding the Board of Dental Examiners Pursuant to Reviews Conducted under the State Government Evaluation Act"

H.P. 1457 L.D. 1958

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

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

Under suspension of the Rules, **READ TWICE**.

On motion by Senator **BROMLEY** of Cumberland, Senate Amendment "B" (S-499) **READ**.

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

Senator **BROMLEY:** Thank you, Madame President. This truly is a technical amendment. It changes two words. It changes 'and' to 'or' and 'a complaint' to 'an application or submission'. Thank you very much.

On further motion by same Senator, Senate Amendment "B" (S-499) **ADOPTED**.

On motion by Senator **HALL** of Lincoln, Senate Amendment "A" (S-498) **READ**.

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

Senator **HALL:** Thank you, Madame President. The Board of Dental Examiners certainly gave the Business, Research and Economic Development Committee a lot to get its teeth into. We had a fairly indigestible six-inch thick report on the government audit of this board. The audit revealed a number of problems. It revealed a board that, in the recent past, has been divided against itself, has been divided among the three professions regulated by this board, and has revealed, in the view of many on the committee, a certain amount of fiscal irresponsibility. Nevertheless, the committee felt that the current leadership of the board was on its way to correcting the problems, and after considerable debate, the committee decided to make a change in the composition of the board. The majority report would change the membership of the Board of Dental Examiners from its present eight-person membership by adding one dental hygienist and deleting one dentist. What this does is change a board that at present includes five dentists, one dental hygienist, one denturist, and one public member and replaces it with a board that consists of four dentists, two dental hygienists, one denturist, and one public member.

Whether the deletion of the fifth dentist was approved by the committee in an excess of zeal to save \$1,100 of that board's funds or whether it was intended to punish the board for past malfeasants, I cannot say. I would only point out that this bill before us, if it is not amended, will create the only professional regulatory board in Maine that does not have a majority on it of the profession regulated and it will create the only dental board in the United States that does not have a majority of dentists on it. Therefore, what my amendment is intended to do is simply restore the fifth dental member of the Board of Dental Examiners. Thank you.

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

Senator **SHOREY:** Thank you, Madame President, men and women of the Senate. I would agree with my good friend from Lincoln. This does need to be done. I think he gave a good outline as to why. I'll be supporting this amendment and would ask you all to do the same. Thank you.

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

Senator **BROMLEY:** Thank you, Madame President. Though the majority of the committee worked very hard on the existing amendment, I think the floor amendment adds an element that is very important. As you always do, I would urge you to vote your conscience on this one. I'll be supporting the Committee Amendment.

On motion by Senator **HALL** of Lincoln, Senate Amendment "A" (S-498) **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENTS "A" (S-498) AND "B" (S-499), in NON-CONCURRENCE.

Sent down for concurrence.

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

ENACTORS

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

Emergency Resolve

Resolve, Authorizing the Commissioner of Administrative and Financial Services To Sell or Lease the Interests of the State in Certain Real Estate in Presque Isle, Known as the "Aroostook Residential Center"

H.P. 1307 L.D. 1785
(C "A" H-696; S "A" S-457)

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:

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator **DOUGLASS** for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Authorize Educational Technicians II in Winslow, China and Vassalboro"
S.P. 781 L.D. 1944

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-500)**.

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

READ ONCE.

Committee Amendment "A" (S-500) **READ** and **ADOPTED**.

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

Sent down for concurrence.

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

ENACTORS

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

Acts

An Act To Clarify Property Eligible for Reimbursement of Property Taxes under the Business Equipment Tax Reimbursement Program

H.P. 1326 L.D. 1804
(H "A" H-846 to C "A" H-823)

An Act To Regulate the Breeding and Sale of Small Mammals

H.P. 1453 L.D. 1952
(H "A" H-851)

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

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

REPORTS OF COMMITTEES

House

Ought to Pass Pursuant to Resolve

The Committee on **JUDICIARY**, pursuant to Resolve 2003, chapter 83, section 9 and Resolve 2003, chapter 101, section 3, on Bill "An Act To Implement the Recommendations of the Committee To Study Compliance with Maine's Freedom of Access Laws"

H.P. 1456 L.D. 1957

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-866)**.

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

READ ONCE.

House Amendment "A" (H-866) **READ** and **ADOPTED**, in concurrence.

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

On motion by Senator **PENDLETON** of Cumberland, Senate Amendment "A" (S-502) **READ.**

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

Senator **PENDLETON:** Thank you, Madame President. This amendment simply clarifies that all the elements of completing a request for public records must be considered in estimating costs and determining whether all the required payment should be paid in advance. It is language that was discussed in the committee and should have been included in the bill. When the bill was drafted, it was accidentally left out.

On motion by Senator **PENDLETON** of Cumberland, Senate Amendment "A" (S-502) **ADOPTED.**

PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-866) AND SENATE AMENDMENT "A" (502), in NON-CONCURRENCE.

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

Bill "An Act To Amend the Motor Vehicle Laws" (EMERGENCY)

S.P. 632 L.D. 1700
(C "A" S-473)

In Senate, April 1, 2004, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-473)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-473) AS AMENDED BY HOUSE AMENDMENT "C" (H-865)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **HATCH** of Somerset, the Senate **RECEDED** and **CONCURRED**.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (4/5/04) Assigned matter:

SENATE REPORTS - from the Committee on **UTILITIES AND ENERGY** on Bill "An Act To Create the Starboard Water District" (EMERGENCY)

S.P. 770 L.D. 1935

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-484)** (10 members)

Minority - **Ought Not to Pass** (3 members)

Tabled - April 5, 2004, by Senator **HALL** of Lincoln

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, April 5, 2004, Reports **READ**.)

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

READ ONCE.

Committee Amendment "A" (S-484) **READ** and **ADOPTED**.

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

Sent down for concurrence.

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

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

SENATE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Ensure Disclosure of Prescription Drug Prices"

S.P. 736 L.D. 1890

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-496)** (7 members)

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

Tabled - April 7, 2004, by Senator **BRENNAN** of Cumberland

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

(In Senate, April 7, 2004, Reports **READ**.)

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

READ ONCE.

Committee Amendment "A" (S-496) **READ** and **ADOPTED**.

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

Sent down for concurrence.

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

Senate at Ease.

Senate called to order by the President.

On motion by Senator **TREAT** of Kennebec, **ADJOURNED**, to Thursday, April 8, 2004, at 10:00 in the morning.