

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

In Senate Chamber
Thursday
May 3, 2001

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-146) AS AMENDED BY HOUSE AMENDMENT "A" (H-265)** thereto, in **NON-CONCURRENCE**.

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

Senate called to order by President Michael H. Michaud of Penobscot County.

Prayer by Father Clement Thibodeau of St. Joseph's Catholic Church in Gardiner.

FATHER THIBODEAU: Lord of the universe, we come before You invoking Your blessing on this sacred body as it begins another day doing the public good for the people of the State of Maine. We are reminded that this Senate has a sacred duty to do what is beneficial for all the people of the state. Party divisions have made us a great nation with the contention bringing forth the best that is available for all the people. It is a great mystery that party differences bring about the best that our political leaders have to offer. Bless the men and women who serve here according to Your will. May they keep the common good of your people before their very eyes. Bless the President of this chamber, its leaders and all its members. May those who work for the Senate remember the trust that the members have put in them. We ask this in Your sacred name, Oh Lord. Amen.

National Anthem performed by Katie Ballard, Manchester Elementary School in Manchester.

Reading of the Journal of Wednesday, May 2, 2001.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act to Require the State to Purchase the Initial Flags That are Required for Veterans' Grave Sites"

H.P. 884 L.D. 1176
(C "A" H-146)

In Senate, April 25, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-146)**, in concurrence.

Non-Concurrent Matter

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Fairly Distribute the Payment of Real Estate Transfer Taxes"

H.P. 729 L.D. 949

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-154)** (7 members)

Minority - **Ought Not to Pass** (6 members)

In House, April 26, 2001, 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-154)**.

In Senate, May 1, 2001, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

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

Senator **GAGNON** of Kennebec moved the Senate **ADHERE**.

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

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

Senator **RAND:** I hope that we will agree with the other body on this particular bill. It's an act to fairly distribute the payment of the real estate transfer tax. What this bill would do is, over a 5 year period, it would increase the amount of money from the real estate transfer tax that will be retained by counties from 10% to 25%. This increase would go over a 5 year period beginning in the fiscal year 2001 through 2002. It will decrease the General Fund revenues, there's no question there. I think it's a matter of justice and fairness because the cost of building and operating county jails across this state is doing a number on county budgets, on top of the cost drivers that are hitting all governments, including energy, health care, the cost of building and maintaining roads. A 1996 analysis by the State Planning Office determined that approximately 2/3 of the \$65 to \$70 million in property taxes that pay for county budgets is assessed to pay for state functions. Jails, corrections officers, housing the courts and prosecutorial offices, probate and registrars cost roughly \$40 million a year in property tax payments, the equivalent of the Homestead Exemption, to pay for state functions. This L.D. would work in an incremental way to address the tax burden shifting that is accomplished by means of this relationship that we

have between the state and its correction policies and the counties who have to implement these policies and the towns and cities who have to pay the bill. So I think this is a very modest attempt to try to get a few dollars back into the counties that do have to pay for the services for the correctional facilities that are mandated, and rightfully so, by the state. So I would ask you please to vote with me and vote to Recede and Concur. Thank you.

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

Senator **GAGNON:** Thank you, Mr. President, men and women of the Senate. I hope that you will not support the pending motion. The Taxation Committee did take a hard look at this. We've taken a look at it over a number of years. You have to understand that the portion of the transfer tax that stays with the communities was originally designed to cover the cost of registry of deeds. That's why it is a percentage. In 1975 that percentage did, in fact, go up. But that was after it had been at 10% for a number of years prior to that, in fact all the time prior to that. It is now at 10%, and as you know, the other 90% comes in to the State of Maine to the General Fund of which ½ of that, or 50% of what comes to the state, goes to the Homestead Fund. The primary reason why the three Senators on the committee did not support the recommendation was because if we're looking for more funds for county governments to offset the property tax, and I'm sympathetic to that, then it probably should be a straight appropriation if we're talking about it coming out of the General Fund through some equation. By the way, we received no testimony, in fact I specifically asked that question of everyone who came up and spoke, if the 10% was adequate to cover the cost of the registries. Is it adequate enough to cover the cost of jails, rural patrols, and all that other stuff? Certainly not. But that's not what it was designed to do. If we are going to move to a system where we are going to use a transfer tax to do that, obviously the counties that have the greatest number of transfers are going to be the real winners in this. I would consider them to be the richer and wealthier counties to begin with. Certainly down in southern Maine there is going to be a lot more funds coming into the counties because it's based on a transfer tax rather than in northern Maine communities or the communities that have fewer transfers. So we didn't think that was an equitable way to provide additional funding to the counties. That should be done though some type of equation if we're going to do it or it should be a straight appropriation based on some other factor other than transfers. I believe that is why the three Senators thought that this was not an adequate way to provide property tax relief to counties because there are some counties that, obviously, have more. I'll leave it at that. Thank you.

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

Senator **FERGUSON:** Thank you very much, Mr. President and ladies and gentlemen of the Senate. This is a bill that I have supported over the years. As many of you know, and I'll probably remind you one more time, I was a County Commissioner for 26 years. The county does do the work. They collect the tax and the good Senator from Kennebec, Senator Gagnon, gave us the distribution of the funds. But if you're for property tax relief, that doesn't go to the county. It actually goes to the tax payers of the

county. It really does. This would be additional revenue for them. It would reduce the tax levy on the municipalities of the county. The good Senator from Cumberland, Senator Rand, laid out a good argument and it's not necessary for me to repeat it. I would hope that you would join us and vote for the pending motion. Thank you, Mr. President.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President and ladies and gentlemen of the Senate. I would only add to the already thorough explanation given in support of this bill that although this money does cover the operating cost of those registries, the cost that it doesn't address, aside from other expenses of the county, is the very significant cost that many counties are undertaking to get their records into a form where they won't be destroyed. Many of the records that are being used publicly now are extremely old and in danger of significant damage. I know that my county is making a tremendous effort to get those into a format where the information is readily accessible to the public but where those very old documents themselves do not have to be handled, resulting in their ultimate deterioration. The 10% provided under current law by no means helps the county out with the funding to perform that service. I hope that you will support the pending motion. Thank you.

THE PRESIDENT: The Chair recognizes President Pro Tem Bennett of Oxford.

President Pro Tem **BENNETT:** Thank you, Mr. President. The Senator from Cumberland, Senator Rand, the Senator from Hancock, Senator Goldthwait, and the senior Senator from Oxford, Senator Ferguson, have done a superb job outlining the virtues of this bill. I want to encourage you to vote for the Recede and Concur motion as well for the simple reason that if you believe that this bill has any merit at all, we need to vote to Recede and Concur to keep it alive. Voting to Adhere, which would be the pending motion, will kill this bill and mean that the possibility of any sort of version of this bill passing after the appropriations process gets through this year will not be possible. For those reasons I encourage you to please vote for the Recede and Concur motion and give this bill a chance to suffer through the same kind of process that all General Fund appropriations bills are going to have to go through this year. It's meritable. It does go directly to the property tax relief. I think that it's worthy of consideration. Thank you.

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

Senator **GAGNON:** Thank you, Mr. President, men and women of the Senate. Once again, I just wanted to repeat that we received testimony that the current distribution of the real estate transfer tax is adequate to fund the registries. We see that over and over again. If the good Senator from Hancock, Senator Goldthwait, thought that we should provide additional funds for record management or some type of promotion, perhaps there should be a straight appropriation to provide that. Right now the primary concern is that some of the counties will be receiving a great bonanza from this change in law, while others will receive close to nothing in additional revenues. It is inequitable, and if

you want to provide property tax relief, just make sure the money stays in the General Fund so we can continue to make money available for GPA, Homestead and other property tax relief programs. This is not high on our list in the Taxation Committee as property tax relief. Thank you.

Senator **GAGNON** of Kennebec requested a Division.

On motion by Senator **DAVIS** of Piscataquis, 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 (#36)

YEAS: Senators: ABROMSON, BENNETT, BROMLEY, CARPENTER, DAVIS, EDMONDS, FERGUSON, GOLDTHWAIT, KILKELLY, KNEELAND, LAFOUNTAIN, LEMONT, MCALEVEY, MITCHELL, PENDLETON, RAND, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - MICHAEL H. MICHAUD

NAYS: Senators: CATHCART, DAGGETT, DOUGLASS, GAGNON, MARTIN, ROTUNDO, TREAT

ABSENT: Senators: LONGLEY, MILLS, NUTTING, O'GARA

24 Senators having voted in the affirmative and 7 Senators having voted in the negative, with 4 Senators being absent, the motion by Senator **RAND** of Cumberland to **RECEDE** and **CONCUR, PREVAILED.**

House Paper

Bill "An Act to Allow a Legislator to Opt Out of the Partisan Staff System"

H.P. 1076 L.D. 1445

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

Comes from the House, **RULED NOT PROPERLY BEFORE THE BODY.**

Senator **MARTIN** of Aroostook moved the Bill and accompanying papers be **INDEFINITELY POSTPONED.**

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

Senator **MARTIN** of Aroostook requested and received leave of the Senate to withdraw his motion to **INDEFINITELY POSTPONE** the Bill and accompanying papers.

The same Senator inquired as to whether this Bill was **PROPERLY BEFORE THE BODY. TABLED** pending **RULING OF THE CHAIR.**

Off Record Remarks

Joint Order

The following Joint Order: H.P. 1327

WHEREAS, this joint study order establishes the Committee to Study the Authorization of Specialty License Plates; and

WHEREAS, during the First Regular Session of the 120th Legislature, the Joint Standing Committee on Transportation has considered the following requests for new specialty license plates:

1. Emergency Medical Technician License Plate;
2. Start ME Right License Plate;
3. Registered Maine Guide License Plate;
4. Sportsman's License Plate;
5. Maine Indian Tribe License Plate;
6. Maine Lobster License Plate;
7. Redesign of the Environmental License Plate;
8. Education License Plate;
9. Maine Black Bears License Plate; and
10. Native Mainers License Plate; and

WHEREAS, a consistent process is necessary to authorize and administer specialty license plates; now, therefore, be it

ORDERED, the Senate concurring, that the Committee to Study the Authorization of Specialty License Plates is established as follows.

1. Committee established. The Committee to Study the Authorization of Specialty License Plates, referred to in this order as the "committee," is established.
2. Committee membership. The committee consists of those Legislators who serve on the Joint Standing Committee on Transportation.
3. Committee chairs. The Senate chair of the Joint Standing Committee on Transportation is the Senate chair of the committee

and the House chair of the Joint Standing Committee on Transportation is the House chair of the committee.

4. Convening of committee. The chairs of the committee shall call and convene the first meeting of the committee no later than August 1, 2001.

5. Duties. The committee shall hold a minimum of 6 meetings. The committee shall gather information and request necessary data from the Secretary of State's office and the Department of Public Safety in order to determine the issues regarding legislative authorization of specialty license plate requests. These issues include:

- A. Statutory requirements;
- B. Impacts on state resources; and
- C. Public safety concerns.

The committee shall study the experiences of other states that authorize specialty license plates and shall consider viable alternatives to the issuance of specialty license plates.

6. Staff assistance. Upon approval of the Legislative Council, the Office of Policy and Legal Analysis shall provide necessary staffing services to the committee.

7. Compensation. The members of the committee are entitled to receive the legislative per diem as defined in the Maine Revised Statutes, Title 3, section 2 and reimbursement for travel and other necessary expenses related to their attendance at meetings to fulfill their duties as charged.

8. Report. The committee shall submit its report together with any recommended implementing legislation to the Second Regular Session of the 120th Legislature no later than December 5, 2001. If the committee requires a limited extension of time to complete its study and make its report, it may apply to the Legislative Council, which may grant the extension. Upon submission of its required report, the committee terminates.

9. Budget. The chairs of the committee, with assistance from the committee staff, shall administer the committee's budget. Within 10 days after its first meeting, the committee shall present a work plan and proposed budget to the Legislative Council for approval. The committee may not incur expenses that would result in the committee's exceeding its approved budget. Upon request from the committee, the Executive Director of the Legislative Council shall promptly provide the committee chairs and staff with a status report on the committee's budget, expenditures incurred and paid and available funds.

Comes from the House, **READ** and **REFERRED** to the Committee on **TRANSPORTATION**.

READ and **REFERRED** to the Committee on **TRANSPORTATION**, in concurrence.

ORDERS

Joint Resolution

On motion by Senator **MARTIN** of Aroostook (Cosponsored by Speaker SAXL of Portland and Senators: CATHCART of Penobscot, SMALL of Sagadahoc, GOLDTHWAIT of Hancock, Representatives: BERRY of Livermore, COLWELL of Gardiner, BRUNO of Raymond) the following Joint Resolution:
S.P. 611

JOINT RESOLUTION TO RECOGNIZE MAY 3, 2001 AS MAINE CULTURAL HERITAGE DAY

WHEREAS, arts and cultural activities enhance the quality of life for all Maine residents, offer important educational opportunities from preschool through retirement, offer productive community outlets, help bolster our tourism industry and help in the attraction of key businesses to Maine; and

WHEREAS, the Maine Cultural Affairs Council is a public and private partnership, consisting of the Maine Arts Commission, the Maine Humanities Council, the Maine State Archives, the Maine Historical Society, the Maine Historic Preservation Commission, the Maine State Library and the Maine State Museum, that was formed in 1991 as a means for Maine's cultural organizations to efficiently deliver and seek funding for public arts and humanities activities in Maine; and

WHEREAS, in 1999, the Maine Legislature established the New Century Community Program, which is a statewide grant program administered by the agencies within the Maine Cultural Affairs Council and which is designed to provide key state support to local arts, cultural and educational efforts; and

WHEREAS, since 1999, the New Century Community Program has helped communities in every county in the State advance arts, cultural and educational opportunities with direct support or grants; and

WHEREAS, as a result of the success of the New Century Community Program, the Pew Charitable Trusts and other national foundations have recognized the Maine Cultural Affairs Council for its efforts and have been studying the Maine Cultural Affairs Council as a model for other states; and

WHEREAS, many of the participants within the New Century Community Program have assembled in the Hall of Flags to celebrate and demonstrate the success of this program as part of Maine Cultural Heritage Day; now, therefore, be it

RESOLVED: That We, the Members of the 120th Legislature, do hereby declare Thursday, May 3, 2001 as Maine Cultural Heritage Day and call upon the members of the Maine Legislature to participate in and celebrate the cultural riches that the State of Maine has to offer.

READ and **ADOPTED**.

Off Record Remarks

Sent down for concurrence.

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Change the Truancy Laws" H.P. 560 L.D. 715

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-211)**.

Signed:

Senators:
MITCHELL of Penobscot
NUTTING of Androscoggin

Representatives:
RICHARD of Madison
DESMOND of Mapleton
CUMMINGS of Portland
STEDMAN of Hartland
ANDREWS of York
WESTON of Montville
LEDWIN of Holden

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

Signed:

Senator:
ROTUNDO of Androscoggin

Representatives:
SKOGLUND of St. George
WATSON of Farmingdale

Comes from the House with the Reports **READ** and the Bill and accompanying papers **COMMITTED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**.

Reports **READ**.

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

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

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act to Eliminate Unnecessary Paperwork for Wage-hour Compliance" H.P. 423 L.D. 544

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-114)**.

Signed:

Senators:
TURNER of Cumberland
SAWYER of Penobscot

Representatives:
CRESSEY of Baldwin
DAVIS of Falmouth
MacDOUGALL of North Berwick
TREADWELL of Carmel
BUNKER of Kossuth Township
TARAZEWICH of Waterboro

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

Signed:

Senator:
EDMONDS of Cumberland

Representatives:
HUTTON of Bowdoinham
NORTON of Bangor
SMITH of Van Buren

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

Reports **READ**.

Senator **EDMONDS** of Cumberland moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report.

Senate

Ought to Pass As Amended

Senator **RAND** for the Committee on **JUDICIARY** on Bill "An Act Regarding the State's Land Use Mediation Program" S.P. 68 L.D. 264

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-130)**.

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

READ ONCE.

Committee Amendment "A" (S-130) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-130)**.

Sent down for concurrence.

Senator DOUGLASS for the Committee on **LEGAL AND VETERANS AFFAIRS** on Resolve, Authorizing the Adjutant General to File a Finalized Declaration of Covenants and Restrictions with the Kennebec County Registry of Deeds in the Veterans' Memorial Cemetery Located on the Mount Vernon Road in Augusta

S.P. 408 L.D. 1352

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-131)**.

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

READ ONCE.

Committee Amendment "A" (S-131) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-131)**.

Sent down for concurrence.

Senator LEMONT for the Committee on **MARINE RESOURCES** on Bill "An Act to Manage the Sea Urchin Fishery"

S.P. 299 L.D. 1010

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-125)**.

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

READ ONCE.

Committee Amendment "A" (S-125) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-125)**.

Sent down for concurrence.

Senator LEMONT for the Committee on **MARINE RESOURCES** on Bill "An Act Concerning the Enforcement of Laws Relating to Scalloping"

S.P. 383 L.D. 1280

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-126)**.

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

READ ONCE.

Committee Amendment "A" (S-126) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-126)**.

Sent down for concurrence.

Senator LEMONT for the Committee on **MARINE RESOURCES** on Bill "An Act to Amend the Laws Pertaining to the Harvest of Adult Eels"

S.P. 394 L.D. 1309

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-127)**.

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

READ ONCE.

Committee Amendment "A" (S-127) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-127)**.

Sent down for concurrence.

Senator LEMONT for the Committee on **MARINE RESOURCES** on Bill "An Act to Establish a Commercial Green Crab Fishing License"

S.P. 526 L.D. 1649

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-128)**.

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

READ ONCE.

Committee Amendment "A" (S-128) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-128)**.

Sent down for concurrence.

Divided Report

The Majority of the Committee on **BANKING AND INSURANCE** on Bill "An Act to Clarify Certain Provisions of the Laws Governing Health Maintenance Organizations and Health Plans"

S.P. 26 L.D. 126

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

Signed:

Senator:

DOUGLASS of Androscoggin

Representatives:

DUDLEY of Portland
SMITH of Van Buren
YOUNG of Limestone
MAYO of Bath
O'NEIL of Saco
SULLIVAN of Biddeford
CANAVAN of Waterville
MARRACHE of Waterville

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-129)**.

Signed:

Senators:

LaFOUNTAIN of York
ABROMSON of Cumberland

Representatives:

MICHAEL of Auburn
GLYNN of South Portland

Reports **READ**.

Senator **LAFOUNTAIN** of York moved the Senate **ACCEPT** the Minority **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 Minority **OUGHT TO PASS AS AMENDED** Report.

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Ensure Independent Decision Making in Appeals of Denials of Abatement of Property Taxes"

S.P. 307 L.D. 1054

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

Signed:

Senators:

PENDLETON of Cumberland
YOUNGBLOOD of Penobscot
ROTUNDO of Androscoggin

Representatives:

BAGLEY of Machias
McDONOUGH of Portland
HATCH of Skowhegan
MURPHY of Berwick
McLAUGHLIN of Cape Elizabeth
KASPRZAK of Newport
CHASE of Levant
HASKELL of Milford
CRESSEY of Baldwin

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-132)**.

Signed:

Representative:

LESSARD of Topsham

Reports **READ**.

On motion by Senator **YOUNGBLOOD** of Penobscot, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**.

Sent down for concurrence.

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Resolve, to Approve Conceptual Elements of the Augusta State Facilities Master Plan

S.P. 536 L.D. 1667

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

Signed:

Senators:

PENDLETON of Cumberland
ROTUNDO of Androscoggin
YOUNGBLOOD of Penobscot

Representatives:

BAGLEY of Machias
McDONOUGH of Portland
HATCH of Skowhegan
LESSARD of Topsham
McLAUGHLIN of Cape Elizabeth
MURPHY of Berwick
CHASE of Levant
HASKELL of Milford

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

Signed:

Representatives:
KASPRZAK of Newport
CRESSEY of Baldwin

Bill, "An Act to Limit the Use of Property Taxes to Fund Education"
H.P. 751 L.D. 970

Reports **READ**.

Tabled - May 2, 2001 by Senator **SMALL** of Sagadahoc

On motion by Senator **YOUNGBLOOD** of Penobscot, the Majority **OUGHT TO PASS** Report **ACCEPTED**.

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-216)**, in concurrence

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

(In House, May 1, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-216)**.)

Sent down for concurrence.

(In Senate, May 2, 2001, Committee Amendment "A" (H-216) **READ** and **ADOPTED**, in concurrence. Subsequently, on motion by Senator **SMALL** of Sagadahoc, **RECONSIDERED**.)

ENACTORS

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

Committee Amendment "A" (H-216) **ADOPTED**, in concurrence.

Acts

An Act to Clarify the Maine Turnpike Authority's Power Regarding Confidentiality of Information

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-216)**, in concurrence.

S.P. 90 L.D. 317
(C "A" S-10)

Senate at Ease.

Senate called to order by the President.

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

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

An Act to Eliminate the Use of Tobacco in Maine Schools and on School Grounds

H.P. 482 L.D. 622
(C "A" H-123)

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

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

Senator **SMALL** of Sagadahoc was granted unanimous consent to address the Senate off the Record.

PASSED TO BE ENACTED and signed by the President, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

ORDERS OF THE DAY

Unfinished Business

The following matter 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.

RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

The Chair laid before the Senate the following Tabled and Later (5/2/01) Assigned matter:

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. 1329

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT AND CONGRESS OF THE UNITED STATES TO SUPPORT THE REFORM OF THE GOVERNMENT PENSION OFFSET AND WINDFALL ELIMINATION PROVISION REQUIREMENTS

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

WHEREAS, 2 provisions of federal law, the Government Pension Offset and the Windfall Elimination Provision, result in the reduction of Social Security benefits of certain state and local government retirees who worked for government units and were not covered by Social Security during that employment; and

WHEREAS, the Government Pension Offset requires a reduction in the spousal benefit received under Social Security equal to 2/3 of the surviving spouse's benefit under another government pension plan; and

WHEREAS, the Windfall Elimination Provision reduces by a formula the Social Security benefit of a person who is also receiving a pension from a public employer that does not participate in Social Security; and

WHEREAS, the Government Pension Offset and the Windfall Elimination Provision were intended to prevent "double dipping" by government retirees collecting benefits under both Social Security and another public pension plan, but, due to the way they operate, the provisions are often harmful to certain retirees; and

WHEREAS, the Government Pension Offset and the Windfall Elimination Provision are particularly burdensome on the finances of lower- and moderate-income public service workers such as school teachers, clerical workers and school cafeteria employees whose wages are low to start; and

WHEREAS, the Government Pension Offset and the Windfall Elimination Provision unfairly fail to distinguish between state and local government public servants who earn high non-Social Security pension benefits and those who earn low non-Social Security pension benefits as the reductions apply to everyone; and

WHEREAS, since many lower-paying public service jobs are held by women, the Government Pension Offset and the Windfall Elimination Provision have a disproportionately adverse impact on them; and

WHEREAS, critical public employees such as teachers, police officers and firefighters who often retire from government service early and attain Social Security eligibility through covered service after retirement are particularly adversely affected by the Windfall Elimination Provision; and

WHEREAS, in some cases, additional support in the form of income, housing, heating, prescription drug and other safety net assistance from state and local governments is needed to make up for the reductions imposed at the federal level; and

WHEREAS, applying the Government Pension Offset to state and local government retirees is unfair because no similar reductions are applied to the Social Security benefits of surviving spouses receiving private pensions; now, therefore, be it

RESOLVED: That, We, your Memorialists, request that the President of the United States and the United States Congress work together to support reform proposals that include at least the following protections for low- and moderate-income government retirees:

1. Permitting retention of an adequate combined public pension or Social Security benefit level before any reductions are applied under the Government Pension Offset and Windfall Elimination Provision;
2. Permanently protecting that level of benefits by indexing it to inflation; and
3. Ensuring that no current recipient's benefit is reduced by the reform legislation; 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; the Speaker of the House of Representatives of the United States; and 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:

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order: H.P. 1330

ORDERED, the Senate concurring, that the Joint Study Committee to Study Growth Management is established as follows.

1. Committee established. The Joint Study Committee to Study Growth Management, referred to in this order as the "committee," is established.
2. Membership. The committee consists of 13 members appointed as follows. The President of the Senate shall appoint 3 members from the Senate and the Speaker of the House shall appoint 10 members from the House of Representatives. Of these members, at least 3 must be members of the Joint Standing

Committee on Natural Resources and the remaining members must be members of the Joint Standing Committee on Transportation, the Joint Standing Committee on Agriculture, Conservation and Forestry, the Joint Standing Committee on Taxation, the Joint Standing Committee on State and Local Government, the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Inland Fisheries and Wildlife.

3. Committee chairs. The first named Senator is the Senate chair of the committee and the first named member of the House is the House chair of the committee.

4. Appointments; convening of committee. All appointments must be made no later than 30 days following the effective date of this order. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been made. When the appointment of all members has been completed, the chairs of the committee shall call and convene the first meeting of the committee, which must be no later than August 1, 2001.

5. Duties. The committee shall study issues related to sprawl and growth management in Maine, including, but not limited to, the issues addressed in L.D. 1478, "An Act to Amend Maine's Growth Management Law and Related Laws"; L.D. 1643, "An Act to Provide Criteria for the Municipal Use of Rate of Growth Ordinances"; L.D. 1693, "An Act to Amend the Comprehensive Planning and Land Use Regulation Laws"; and L.D. 1444, "An Act to Enhance Local Accountability."

6. Staff assistance. Upon approval of the Legislative Council, the Office of Policy and Legal Analysis shall provide necessary staffing services to the committee.

7. Compensation. Members of the committee are entitled to receive the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for travel and other necessary expenses for attendance at authorized meetings of the committee.

8. Report. The committee shall submit its report that includes its findings and recommendations, including suggested legislation, to the Second Regular Session of the 120th Legislature no later than December 5, 2001. The committee is authorized to introduce legislation related to its report to the Second Regular Session of the 120th Legislature at the time of submission of its report.

9. Extension. If the committee requires a limited extension of time to complete its study and make its report, it may apply to the Legislative Council, which may grant an extension. Upon submission of its required report, the committee terminates.

10. Committee budget. The chairs of the committee, with assistance from the committee staff, shall administer the committee's budget. Within 10 days after its first meeting, the committee shall present a work plan and proposed budget to the Legislative Council for its approval. The committee may not incur expenses that would result in the committee's exceeding its approved budget. Upon request from the committee, the Executive Director of the Legislative Council or the executive

director's designee shall provide the committee chairs and staff with a status report on the committee's budget, expenditures incurred and paid and available funds.

Comes from the House, **READ** and **REFERRED** to the Committee on **NATURAL RESOURCES**.

READ and **REFERRED** to the Committee on **NATURAL RESOURCES**, in concurrence.

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order: H.P. 1332

ORDERED, the Senate concurring, that the Joint Standing Committee on Legal and Veterans Affairs report out, to the House, a bill regarding the use of tokens for games of chance at agricultural fairs.

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

READ and **PASSED**, in concurrence.

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

REPORTS OF COMMITTEES

House

Refer to the Committee on Marine Resources Pursuant to Joint Order (H.P. 1325)

The Committee on **MARINE RESOURCES** on Bill "An Act to Allow Marine Patrol Officers to Hold Elected Positions" H.P. 1331 L.D. 1788

Reported that the same be referred to the Committee on **MARINE RESOURCES**, pursuant to Joint Order H.P. 1325.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **MARINE RESOURCES**.

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

REFERRED to the Committee on **MARINE RESOURCES**, in concurrence.

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

H.P. 285 L.D. 363

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Provide Continued Funding for the Maine Airls Program"

H.P. 194 L.D. 205

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-268)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-268)**.

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

READ ONCE.

Committee Amendment "A" (H-268) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-268)**, in concurrence.

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Support Requests for Jobs for Maine's Graduates Programs in Maine Communities"

H.P. 289 L.D. 367

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-267)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-267)**.

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

READ ONCE.

Committee Amendment "A" (H-267) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-267)**, in concurrence.

The Committee on **JUDICIARY** on Bill "An Act to Clarify the Law Regarding Name Changes"

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-280)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-280)**.

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

READ ONCE.

Committee Amendment "A" (H-280) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-280)**, 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 **JUDICIARY** on Bill "An Act to Treat All Children with Dignity"

H.P. 864 L.D. 1136

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-281)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-281)**.

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

READ ONCE.

Committee Amendment "A" (H-281) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-281)**, in concurrence.

The Committee on **JUDICIARY** on Bill "An Act to Address Confidentiality of Records in the Medical Examiner Act"

H.P. 1213 L.D. 1645

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-282)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-282)**.

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

READ ONCE.

Committee Amendment "A" (H-282) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-282)**, in concurrence.

The Committee on **JUDICIARY** on Bill "An Act to Make Certain Technical and Clarifying Changes to the Medical Examiner Act"
H.P. 1258 L.D. 1705

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-283)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-283)**.

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

READ ONCE.

Committee Amendment "A" (H-283) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-283)**, in concurrence.

The Committee on **UTILITIES AND ENERGY** on Bill "An Act to Amend the Charter of the Vinalhaven Water District"
(EMERGENCY)

H.P. 1275 L.D. 1735

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-269)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-269)**.

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

READ ONCE.

Committee Amendment "A" (H-269) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-269)**, 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 Ensure Adequate Funding for School Construction Costs"

H.P. 1241 L.D. 1684

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-193) AS AMENDED BY HOUSE AMENDMENT "A" (H-258)** thereto.

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

READ ONCE.

Committee Amendment "A" (H-193) **READ** and **ADOPTED**, in **NON-CONCURRENCE**.

On motion by Senator **MITCHELL** of Penobscot, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-193), in **NON-CONCURRENCE**.

House Amendment "A" (H-258) to Committee Amendment "A" (H-193) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-193) as Amended by House Amendment "A" (H-258) thereto, **ADOPTED**, in concurrence.

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

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

Senator **WOODCOCK:** Thank you, Mr. President, men and women of the Senate. Prior to passing this bill to be engrossed, I would like to state on the record that it was the intent of this bill, as unanimously reported by the Education Committee, to have an annual recalculation of the debt payment for a 10 year period or until a time when the debt is completely paid. Thank you.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-193) AS AMENDED BY HOUSE AMENDMENT "A" (H-258) thereto, in concurrence.

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Resolve, to Create a State-run Pharmacy Benefits Manager

H.P. 706 L.D. 921

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-251)**.

Signed:

Senators:

LONGLEY of Waldo
MARTIN of Aroostook

Representatives:

FULLER of Manchester
BROOKS of Winterport
DUDLEY of Portland
LAVERRIERE-BOUCHER of Biddeford
DUGAY of Cherryfield
KANE of Saco
LOVETT of Scarborough
O'BRIEN of Augusta
SHIELDS of Auburn

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

Signed:

Senator:

TURNER of Cumberland

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-251)**.

Reports **READ**.

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

On further motion by same Senator, **TABLED** 1 Legislative Day, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Divided Report

The Majority of the Committee on **LABOR** on Resolve, to Study the Benefits and Costs for Increasing Access to Family and Medical Leave for Maine Families

H.P. 1097 L.D. 1466

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-245)**.

Signed:

Senators:

EDMONDS of Cumberland
TURNER of Cumberland
SAWYER of Penobscot

Representatives:

MATTHEWS of Winslow
DAVIS of Falmouth
MacDOUGALL of North Berwick
TREADWELL of Carmel
BUNKER of Kossuth Township
HUTTON of Bowdoinham
NORTON of Bangor
SMITH of Van Buren
TARAZEWICH of Waterboro

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

Signed:

Representative:

CRESSEY of Baldwin

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-245)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-245) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-245)**, in concurrence.

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

REPORTS OF COMMITTEES

Senate

Ought to Pass

Senator MITCHELL for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Address Violence in Schools"

S.P. 113 L.D. 339

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

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

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

Sent down for concurrence.

Ought to Pass As Amended

Senator CARPENTER for the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Change the Snowmobile Registration Laws"

S.P. 109 L.D. 335

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-133)**.

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

Committee Amendment "A" (S-133) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-133)**.

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

Resolve, to Study the Statutes Pertaining to Funeral Homes, Crematories and Cemeteries

S.P. 413 L.D. 1357
(C "A" S-86)

In Senate, April 30, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-86)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-86) AS AMENDED BY HOUSE AMENDMENT "A" (H-248)** thereto, in **NON-CONCURRENCE**.

On motion by President Pro Tem **BENNETT** of Oxford, **TABLED** until Later in Today's Session, pending **FURTHER CONSIDERATION**.

Off Record Remarks

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order: H.P. 1317

ORDERED, the Senate concurring, that the Joint Standing Committee on Business and Economic Development report out, to the House, legislation to ensure the statewide television broadcast of state high school basketball championship games.

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

READ.

Senator **SHOREY** of Washington moved the Joint Order be **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

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

Senator **SHOREY:** Thank you, Mr. President, men and women of the Senate. This Joint Order came to the Legislative Council as an after-deadline bill and it was not passed. This is an end run around the process. Aside from the merits of it, I would urge you to vote to Indefinitely Postpone this. We should not be mandating what private businesses should be doing and if there is a demand and an audience for this, these basketball games would be televised in the first place. Thank you.

On motion by Senator **SHOREY** of Washington, **INDEFINITELY POSTPONED**, 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 Measure

An Act Concerning Closed Periods for Lobstering

H.P. 490 L.D. 630
(C "A" H-203)

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 Extend the Youth in Need of Services Oversight Committee

H.P. 780 L.D. 1024
(C "A" H-207)

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

ORDERS OF THE DAY

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

Resolve, to Study the Statutes Pertaining to Funeral Homes, Crematories and Cemeteries

S.P. 413 L.D. 1357
(C "A" S-86)

Tabled - May 3, 2001, by President Pro Tem **BENNETT** of Oxford

Pending - **FURTHER CONSIDERATION**

(In Senate, April 30, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-86).**)

(In House, May 3, 2001, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-86) AS AMENDED BY HOUSE AMENDMENT "A" (H-248)** thereto, in **NON-CONCURRENCE.**)

On motion by President Pro Tem **BENNETT** of Oxford, the Senate **RECEDED** and **CONCURRED.**

The Chair laid before the Senate the following Tabled and Later (5/02/01) Assigned matter:

SENATE REPORTS - from the Committee on **LABOR** on Bill "An Act to Clarify the Qualifications for Health Care Providers Conducting Employer-requested Examinations"

S.P. 155 L.D. 499

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-111)** (7 members)

Minority - **Ought Not to Pass** (6 members)

Tabled - May 2, 2001, by Senator **EDMONDS** of Cumberland

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

(In Senate, May 2, 2001, Reports **READ.**)

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

Senator **TURNER:** Thank you, Mr. President, ladies and gentlemen of the Senate. Like most reports in Labor, this is a divided one. It has a nice enough sounding title that seeks to prohibit a significant portion of the doctors who perform examinations of injured workers in workers compensation cases. These are, for the most part, retired doctors. The qualifications that it seeks to clarify are not really qualifications at all but rather an attempt to disallow a doctor by saying that if you don't have hospital privileges you can't conduct such examinations or if such examinations comprise the majority of your practice, you cannot conduct these examinations. The legislation really is an attempt to get at the so called bad apple doctor who might be in the system by throwing out all the doctors in the barrel. Retired doctors who conduct these examinations make up a significant portion of the supply of doctors who do conduct them at this time. There are existing regulations and laws in place today. In addition, we all know that doctors take an oath and are guided by a code of ethics that place their professions at the highest level in our society. The arguments from the proponents of this bill is that the doctor will do the bidding of the person paying for the examination instead of rendering his or her professional opinion. Pass this bill and you can be sure of at least three things; you'll insult the doctors in your community, you'll reduce the available supply of doctors that conduct workers compensation examinations, and you will increase the time it takes to get resolution at the speed of cases that flow through the system now. So I would urge that you vote against the pending motion. Thank you.

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

Senator **EDMONDS:** Thank you, Mr. President. It's actually much simpler than that, ladies and gentlemen of the Senate. In 1999, there was a change to insure that doctors performing exams actually treat patients and that they don't give insurance opinions full-time. In fact, that wasn't what happened. What happened was that we granted people the right to have hospital privileges at a hospital. Well, it's very simple to get hospital privileges at a hospital. It doesn't necessarily mean that you are somebody who actively treats patients. So this bill only adds the words, let me get them exactly for you, "may be demonstrated by having active clinical privileges at a hospital." This means they are somebody who actually treats somebody. I think it's a simple clarification of something that happened in the last legislature and deserves our approval. I must also say that I totally disagree with my dear friend on the Labor Committee regarding the fact that this is an insult to doctors. I don't think it is at all. In fact, this means if you are an active, treating doctor at a hospital or in any place in the state of Maine, you can be asked to do this and that seems to me to be an increase rather than a decrease. Thank you.

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

Senator **NUTTING:** Thank you, Mr. President, ladies and gentlemen of the Senate. This bill is a bill that I sponsored and brought before the Labor Committee. Most of you know that I don't support wholesale changes to the workers compensation system and have voted that way in the past. However, this one issue I feel very strongly about. I think this is a basic fairness issue. Yes, I'm the one who brought the bill forward in 1999 to try to address this exact same situation. The situation is that there are three insurance companies that have doctors in their total employment giving second opinions. These doctors do not have an active practice. They spend no time at all actively treating patients outside of their insurance company settings. Their only office is in the insurance building. They don't have an examining room. They look at someone from across the room and say "you're fine" in most cases. Now the bill in 1999, I thought, addressed the problem. If you look at Senate Amendment S-111 on line 40, what we did in 1999 was we said those doctors had to have treating privileges at a hospital. Well, we found out last year that it's very easy for someone to get treating privileges at a hospital, even if you're not admitting any patients or not spending any time at the hospital. These three insurance company doctors have gone out and have gotten admitting privileges at a hospital. So the law we passed did absolutely nothing. I worked with the Maine Medical Association in drafting this bill. They suggested in line 40 that we use the words "active clinical privileges." This means that you're going to get doctors giving a second opinion that have an active practice and they know what they are doing. To me, again, just basic fairness to an injured worker. I hate standing up and saying that I got snookered a couple of years ago, but frankly that's exactly what happened. That's why I'm back today. I try to keep that to a minimum, but now and then it happens. Three points I'll make to counter what the good Senator from Cumberland, Senator Turner, said. The Maine Medical Association supports this bill. They helped draft it. This is not an insult to doctors. Many doctors will have a very active and busy practice and then they will go into like a semi-retirement where they are still in the hospital some, they are still treating some patients actively in a hospital setting, but they are also giving second opinions at the same time. We have a doctor in the other body that helped draft this bill in fact. Before he fully retired with active treating privileges, he, himself, did give some second opinions. The Maine Medical Association was asked "are there enough doctors in Maine to do these second opinions if we change this language?" Their answer was "yes" at the work session. So I strongly feel this is not going slow down the system. This is just basic fairness for injured workers and I hope that you will go on and support this bill. I have it right this time, I promise you I won't be back again. I urge you to support the Majority report and I ask for a roll call. Thank you.

Senator **NUTTING** of Androscoggin requested a Roll Call.

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

Senator **TURNER:** Thank you, Mr. President. To the good Senator's last point, I do believe he's term limited, so perhaps he won't be back for that reason. I talked with Senator Nutting about

the bill and I'm certainly sympathetic to what he's trying to accomplish. I do not think this bill does it and I would seek to correct one point that he made with regards to the proponents of this bills being from the Maine Medical Association. They are, in fact, opposed to it. I'm getting a shaking of the head from the good Senator from Cumberland, Senator Edmonds, but there is somebody in the chamber, obviously, who's not going to speak on the matter who is agreeing with what I am saying and happens to be from the Maine Medical Association. Thank you, sir.

On motion by Senator **NUTTING** of Androscoggin, 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 Somerset, Senator Mills.

Senator **MILLS:** Mr. President and men and women of the Senate, to try to reconcile this gentlemanly disagreement, I'm reliably informed that the Maine Medical Association did participate in helping to draft some of the language that would be helpful but they took no formal position either for or against the legislation in question. That's what I have been informed. I have just had the opportunity of reading the bill. I was somewhat involved in the earlier legislation that passed through here a year or so ago. The bill does have a wholly separate provision, two actually. One is that it appears to eliminate the opportunity for a recently retired physician to do any independent medical examinations. I'm too certain why that provision is included in this bill. The second thing is that it has on the second page of the bill a long paragraph explaining what the health care provider, the examining doctor, must do and say to the employee at the outset of the examination. I'm somewhat in sympathy with these provisions but they are rather onerous. I don't know what the consequences are if the health care provider, the doctor, fails to undertake this disclosure. It's sort of like a workers compensation miranda warning to be given at the outset of the examination. I'm inclined at the moment to oppose the bill as drafted, although I think that I agree, to some extent, with good Senator from Androscoggin, Senator Nutting, when he says that the intent of the bill last year was eroded somewhat by a provision that permitted a doctor to qualify as an examining physician merely by obtaining treating privileges at a hospital. Apparently that's much easier to obtain than any of us had known. On the balance, because of the other contents of the bill, I'm inclined to vote against it at this juncture. Thank you.

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

Senator **GOLDTHWAIT:** Thank you, Mr. President. I'm concerned about a few of the comments that have been made and want to address just a couple of points in the bill. One is that if we have physicians who are looking at somebody across the room and saying "your fine" we've got laws to cover that. It's called malpractice. Some conditions that are presented in these situations are quite easy to diagnose and deal with and some are not. That is why I think this is an important piece of legislation. Any patient who presents himself to a physician, or other health care provider for that matter, with a need for an examination and a diagnosis has a right, in my mind, to a careful, meticulous examination by a provider who is well trained and is current. I

think that's the critical piece that this bill is trying to address. Deleting the language that says a person may have had an active practice as much as two years ago, I know that when I leave the emergency room in December to come to work here and go back in June, a lot has changed. Standards of dosages have changed in that time. I can't find anything, everything's been moved around. But certainly some of the protocols that we observe and practice in the emergency room have changed substantially in just a few months. So to have providers who are doing examinations when they may have been entirely removed from a practice for as long as two years is a concern to me. I think this is a reasonable attempt to say that if you past muster to get active clinical practice privileges at a hospital, somebody is in some way overseeing the work that you do and has deemed you worthy to practice. I think that's a good thing. As far as the Section 2 of the bill, it really only specifies things that are part of practice now. If you want your record from a provider, you can get that. If you need to have medical records transmitted from your regular physician to the examining physician in this case, you need only to sign a release and that can happen. So I think that those things are already covered in our existing law, but neither does that provision do any harm. It doesn't trouble me. On the whole of it, what we're doing here is providing that anyone who is being examined for whatever reason is entitled to a provider who is well qualified and current in their practice. I appreciate your attention.

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

Senator **NUTTING:** Thank you, Mr. President. I want to thank the good Senator from Hancock, Senator Goldthwait, for her observations on this bill, working in the field as she does when she's not working around here. I can't resist commenting on what the good Senator from Somerset, Senator Mills, said. He said that the previous bill passed had been somewhat eroded. I might use the word "guttled" I think rather than "eroded." I want to also talk very briefly about one other point. Most physicians don't have a totally active practice and then stop on a dime and don't do another thing. They'll slow their practice down and give some second opinions, still have some active treating privileges, and so they don't just stop on a dime and all of a sudden they're retired and do nothing. A physician who is spending even a quarter of his time actively treating patients in a hospital still can give a second opinion under this bill. Section 2 of the bill is here because many injured workers have been denied this basic information in the past. The scope of the examination. What are you looking for? So that's why Section 2 of the bill has been added. I have a constituent that came to the bill's public hearing who had seen two physicians. Both had said he was either 28% or 34% permanently impaired. He can only walk with a cane. The insurance company doctor that gave him the second opinion said that he was 0% permanently impaired. So that's another reason the bill is here. Thank you for your consideration.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#37)

YEAS: Senators: BROMLEY, CATHCART, DAGGETT, DOUGLASS, EDMONDS, GAGNON, GOLDTHWAIT, KILKELLY, LAFOUNTAIN, LONGLEY, MARTIN, NUTTING, O'GARA, PENDLETON, RAND, ROTUNDO, TREAT, THE PRESIDENT - MICHAEL H. MICHAUD

NAYS: Senators: ABROMSON, BENNETT, CARPENTER, DAVIS, FERGUSON, KNEELAND, LEMONT, MCALEVEY, MILLS, MITCHELL, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD

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

READ ONCE.

Committee Amendment "A" (S-111) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-111)**.

Sent down for concurrence.

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

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act to Eliminate Unnecessary Paperwork for Wage-hour Compliance"

H.P. 423 L.D. 544

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-114)** (8 members)

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

Tabled - May 3, 2001, by Senator **EDMONDS** of Cumberland

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report

(In House, May 2, 2001, Reports **READ** and the Bill and accompanying papers **INDEFINITELY POSTPONED**.)

(In Senate, May 3, 2001, Reports **READ**.)

The Chair ordered a Division. 13 Senators having voted in the affirmative and 20 Senators having voted in the negative, the motion by Senator **EDMONDS** of Cumberland to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, **FAILED**.

The Majority **OUGHT TO PASS AS AMENDED** Report
ACCEPTED, in **NON-CONCURRENCE**.

READ ONCE.

Committee Amendment "A" (H-114) **READ** and **ADOPTED**, in
NON-CONCURRENCE.

Under suspension of the Rules, **READ A SECOND TIME** and
PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE
AMENDMENT "A" (H-114), in **NON-CONCURRENCE**.

Sent down for concurrence.

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

HOUSE REPORTS - from the Committee on **EDUCATION AND**
CULTURAL AFFAIRS on Bill "An Act to Change the Truancy
Laws"

H.P. 560 L.D. 715

Majority - **Ought to Pass as Amended by Committee**
Amendment "A" (H-211) (9 members)

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

Tabled - May 3, 2001, by Senator **MITCHELL** of Penobscot

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

(In House, May 2, 2001, Reports **READ** and the Bill and
accompanying papers **COMMITTED** to the Committee on
EDUCATION AND CULTURAL AFFAIRS.)

(In Senate, May 3, 2001, Reports **READ**.)

On motion by Senator **MITCHELL** of Penobscot, Bill and
accompanying papers **COMMITTED** to the Committee on
EDUCATION AND CULTURAL AFFAIRS, in concurrence.

Under suspension of the Rules, all matters thus acted upon were
ordered sent down forthwith for concurrence.

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

ENACTORS

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

Acts

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| An Act to Lower In-state Phone Costs for Rural Maine S.P. 17 L.D. 33 (C "A" S-76) | (C "A" H-197) |
| An Act to Provide an Extra Hunting Opportunity for Junior License Holders H.P. 46 L.D. 55 (C "A" H-183) | An Act to Implement the Maine Agricultural Internship and Training Program S.P. 227 L.D. 792 (C "A" S-79) |
| An Act to Require Elevators Installed during New Construction be Large enough to Accommodate Ambulance Stretchers H.P. 56 L.D. 65 (C "A" H-105) | An Act to Revise the Charter of the Ogunquit Sewer District S.P. 252 L.D. 884 (C "A" S-77) |
| An Act to Ensure that Fishways on Inland Waters are Working H.P. 140 L.D. 151 (C "A" H-182) | An Act to Amend the Protection from Abuse and Protection from Harassment Laws H.P. 734 L.D. 954 |
| An Act to Amend the Laws Governing Building Permits in the Unorganized Territories H.P. 239 L.D. 276 (C "A" H-185) | An Act to Waive Immunization Requirements for Students Participating in Distance Programs H.P. 748 L.D. 967 (C "A" H-192) |
| An Act to Amend the Time the Registrar is Required to be at a Municipal Caucus H.P. 243 L.D. 279 (C "A" H-168) | An Act to Amend the Laws Governing the Maine Potato Board S.P. 285 L.D. 996 (C "A" S-78) |
| An Act Regarding Statute of Limitations for Attorneys H.P. 260 L.D. 309 (C "A" H-196) | An Act to Amend the Covered Load Laws S.P. 293 L.D. 1004 (C "A" S-83) |
| An Act to Include Whole Scallops in the Shellfish Sanitation Program H.P. 267 L.D. 345 (C "A" H-204) | An Act to Prohibit the Exclusion of Legal Counsel as a Condition of Settlement H.P. 817 L.D. 1071 |
| An Act to Modify the Bureau of Insurance Complaint Ratios and to Increase the Amount of Penalties Assessed Against Violators of the Maine Insurance Code H.P. 338 L.D. 428 (C "A" H-199) | An Act Conforming Maine Digital Signature Law to Federal Law H.P. 908 L.D. 1222 (C "A" H-195) |
| An Act to Provide a Local Option on Display of the United States and State flags H.P. 369 L.D. 471 (C "A" H-145) | An Act to Allow the Maine Turnpike Authority to Levy an Administrative Fee against Toll Evaders S.P. 417 L.D. 1361 (C "A" S-82) |
| An Act Concerning the State Board of Funeral Service H.P. 378 L.D. 480 (C "A" H-187) | An Act to Enhance the Professional Skills of Maine's Educational Technicians H.P. 1036 L.D. 1393 (C "A" H-190) |
| An Act to Allow the Agencies of the Department of Professional and Financial Regulation to Revoke Professional and Occupational Licenses H.P. 385 L.D. 487 (C "A" H-206) | An Act to Revise the Maine Science and Technology Foundation's Charter and Revise the Charter of the Centers for Innovation H.P. 1094 L.D. 1463 (C "A" H-188) |
| An Act to Eliminate the Requirement that Workers' Compensation Insurers Disclose Certain Cost Breakdowns When Issuing Workers' Compensation Policies H.P. 533 L.D. 688 | An Act to Restructure the Kennebec County Advisory Budget Committee H.P. 1226 L.D. 1673 |

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 Eliminate the Fee for Veterans Registration Plates
S.P. 14 L.D. 31
(C "A" S-81)

On motion by Senator **SAVAGE** of Knox, placed on the **SPECIAL HIGHWAY TABLE**, pending **ENACTMENT**, in concurrence.

An Act to Amend the Maine Criminal Code to Reduce the Incentive to Commit Theft
H.P. 1071 L.D. 1434
(C "A" H-202)

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

An Act to Create a Digital Library to Meet the Educational, Research, Business and Economic Needs of Maine
H.P. 1102 L.D. 1471
(C "A" H-194)

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

Resolve

Resolve, to Study the Feasibility of a 4-year Vocational Educational Program
H.P. 599 L.D. 754
(C "A" H-191)

On motion by Senator **GOLDTHWAIT** of Hancock, 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

House

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Permit the Ten Commandments to be Posted in Public Schools"
H.P. 1112 L.D. 1481

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

Signed:

Senators:
MITCHELL of Penobscot
NUTTING of Androscoggin
ROTUNDO of Androscoggin

Representatives:
RICHARD of Madison
DESMOND of Mapleton
SKOGLUND of St. George
WATSON of Farmingdale
ESTES of Kittery
CUMMINGS of Portland
ANDREWS of York
LEDWIN of Holden

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-209)**.

Signed:

Representatives:
STEDMAN of Hartland
WESTON of Montville

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

Reports **READ**.

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

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

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

Senator **MARTIN** of Aroostook was granted unanimous consent to address the Senate off the Record.

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

President Pro Tem **BENNETT** of Oxford was granted unanimous consent to address the Senate off the Record.

On motion by President Pro Tem **BENNETT** of Oxford,
ADJOURNED to Friday, May 4, 2001, at 9:30 in the morning.