

# MAINE STATE LEGISLATURE

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**Legislative Record**  
**House of Representatives**  
**One Hundred and Twenty-First Legislature**  
**State of Maine**

**Volume III**

**Second Special Session**

April 8, 2004 - April 30, 2004

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It is technically a mandate, but it doesn't have a mandate preamble because it is ending up on the Appropriations Table. I am not explaining this very well, but this is what the Office of Fiscal and Program Review suggested happen as a result of several other earlier votes on this bill today.

The SPEAKER: The Chair recognizes the Representative from Arundel, Representative Daigle.

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. I appreciate the information that was provided by Representative Mills, but earlier tonight I asked a question about whether this was necessary. If we didn't pass a law, could we still develop a policy at the Criminal Justice Academy could we still pass it along? I understand the answer was yes. Representative Mills just mentioned about high-speed pursuits and domestic violence and other things that are currently policy. I don't remember any laws on those either. I still think there is a general premise of whether Augusta needs to tell people to do this and somehow because this thing was born as bill, it needs to stay alive as a bill. I think it just violates the basic premise to not pass any laws that you don't need. For that reason, I would encourage other members to vote against the pending motion and just have one less piece of paper to process any more than we are and to tell our towns to do something that they don't need to be told. They can participate willingly without a law.

The SPEAKER: A roll call has been ordered. The pending question before the House is Enactment. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 489**

YEA - Adams, Andrews, Barstow, Beaudette, Blanchette, Bliss, Bowles, Brannigan, Bull, Canavan, Courtney, Cowger, Craven, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gerzofsky, Glynn, Goodwin, Grose, Hatch, Hutton, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Maietta, Mailhot, Makas, Marley, Marraché, McGowan, McKee, McLaughlin, Mills J, Mills S, Moody, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Richardson J, Sampson, Saviello, Sherman, Simpson, Smith N, Smith W, Sukeforth, Sullivan, Suslovic, Tardy, Thomas, Thompson, Trahan, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Bennett, Berry, Bierman, Bowen, Browne W, Bruno, Bryant-Deschenes, Bunker, Campbell, Carr, Churchill J, Clough, Collins, Cressey, Crosthwaite, Curley, Daigle, Davis, Dugay, Fletcher, Gagne-Friel, Greeley, Heidrich, Honey, Jacobsen, Jodrey, Lewin, McCormick, McKenney, McNeil, Millett, Moore, Murphy, Muse, Nutting, Rector, Richardson E, Rogers, Rosen, Snowe-Mello, Stone, Sykes, Tobin D, Tobin J, Treadwell, Wotton.

ABSENT - Ash, Berube, Breault, Brown R, Churchill E, Clark, Duprey B, Hotham, Jackson, Jennings, Joy, Kaelin, Kane, Landry, Ledwin, McGlocklin, O'Brien J, Peavey-Haskell, Piotti, Richardson M, Rines, Shields, Vaughan, Young.

Yes, 79; No, 48; Absent, 24; Excused, 0.

79 having voted in the affirmative and 48 voted in the negative, with 24 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

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The Chair laid before the House the following item which was **TABLED** earlier in today's session:

Joint Order To Require a Special Election on the Initiated Bill Pertaining to Tax Reform.

(S.P. 803)

Which was **TABLED** by Representative LEMOINE of Old Orchard Beach pending **PASSAGE**.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Glynn.

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I have a question.

The SPEAKER: The Representative may pose his question.

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I understand from reading this order that there is going to be a special election this June for the Carol Palesky referendum. However, I see no paper accompanying it for a competing measure. Am I to understand that this is to go out on the ballot without a competing measure?

The SPEAKER: The Chair recognizes the Representative from Old Orchard, Representative Lemoine.

Representative **LEMOINE**: Mr. Speaker, Men and Women of the House. The Tax Committee this afternoon took a look at the opinion we received from the Supreme Court Justices. We were finally able to have that in front of us. Having reviewed that, we voted out a simple Ought Not to Pass on the bill. It should be up here on our desks at some point if it is not here now. The recommendation from the Taxation Committee is a simple Ought Not to Pass.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Courtney.

Representative **COURTNEY**: Mr. Speaker, Ladies and Gentlemen of the House. I guess we will help our colleagues out tonight and go past 12 o'clock. This order requests that we have this vote in June. Some of us have a little problem with that. The problem is that the people who signed the petition thought that it was going to be in November. It is on the petition that it was in November. I think we owe it to the people to give them the opportunity to vote on what they signed for. I would ask that you vote against this. Thank you.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Glynn.

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. If I was to understand the answer correctly from the good chair, there will not be a competing measure for the voters to consider with this. This is an item that I have been approached on by so many people in my district that they had asked that the Legislature work together in a bipartisan fashion and develop an alternative to the Palesky referendum and allow the voters to choose between our referendum and theirs and institute some real and meaningful tax relief. For those reasons, I cannot vote to put this out on the June ballot without a competing measure.

The SPEAKER: The Chair recognizes the Representative from Cornville, Representative Mills.

Representative **MILLS**: Mr. Speaker, Men and Women of the House. I think that if we do advance this to the June ballot it leaves it exposed to a lesser turnout in elections. I think that we need a broader cleveite on this issue, one that we will certainly have in a presidential election year as this is, on the November ballot. I think if we move it to June, it leaves us open to an argument that the supporters of this very poor initiative don't have

at present. They will argue that we in the Legislature without courage to do anything of our own, nevertheless had the hootspa to manipulate the outcome or the management of their petition. They have argued with some force in front of the Tax Committee that their petitions have all assumed with writing and signed with the understanding that it would be a broad based election opportunity. This would be presented in November and there would be a broad turnout one way or the other. I frankly think that our changes of defeating this bill are better when there is a broader turnout and a better opportunity to educate a broad spectrum of the electorate. I am concerned about what might happen in a June primary election. I don't want to give the supporters of this petition an argument that they don't have yet and that is that we, in the Legislature, have somehow tried to manipulate the referendum.

I realize there are arguments on both sides of this issue and frankly I respect the dialog that I have heard about it. I don't have strong views either way. I think I am balanced that we would be better off to leave this to go to the November ballot. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Watson.

Representative **WATSON:** Mr. Speaker, Ladies and Gentlemen of the House. Just a few moments ago there was an announcement made from the rostrum that negotiations and discussions on the tax reform and tax relief package are to continue for the next 10 days or so. It is in my hope, certainly, that that communication remains open. It occurs to me and I will not as a member sitting here usurp the authority and perhaps a better decision of either corner, but it seems to me that we are limiting our options by voting on this measure at this time.

If, in fact, those tax discussions result in an idea that would require or would be best presented to the people of Maine in June rather than November by voting tonight one way or the other, we are limiting one more option. It is my very respectful suggestion that corners consider, perhaps putting this off, leave it on the table until we come back here and we have a package in hand and a decision being made over the next 10 days as to whether or not it might be something that requires a competing measure or an amendment or whatever else might have to go out to the people. I just think it is presumptive of us at this stage of negotiations to limit our options. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative **BRUNO:** Mr. Speaker, Ladies and Gentlemen of the House. I am very concerned about this referendum. First of all, the people who signed it, there were over 60,000 signatures on it and 50,000 were validated. When they signed it said November. I think it would be wrong for us to say to them what you signed didn't matter. It would be like us taking an initiated bill that passed in a referendum vote and completely changing it, kind of like casinos if that rings a bell.

My other concern is that we are putting too much faith in the courts decision and their reply to us as to what the bill does and how it is unconstitutional. It was a 4 to 3 vote by the court. Three members said it shouldn't even be to us yet because it hasn't passed. Four people took a position on the first question and said that you are probably right, that piece is probably unconstitutional. The second question said that because of the provision you can probably fix it and it is okay in other provisions. If we are going to bank everything on that decision that this will be defeated, I think we are fooling ourselves. I think if we hold a referendum in November, it gives us plenty of time to educate the public on this. People are still angry. I agree with the Representative from Bath, Representative Watson, that it may not be a bad decision right now to table this until we have those

discussions that the Speaker and the Majority Leader talked about and then determine when is the best time to send this out. Hopefully somebody from the other corner will stand up soon and table this motion.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Courtney.

Representative **COURTNEY:** Mr. Speaker, Ladies and Gentlemen of the House. I was trying to defer hoping that someone else on the other side of the aisle would take heed to the good Representative from Bath's suggestion that we table this. I would request that we table this and request a roll call.

The SPEAKER: The Representative is out of order since the Representative already debated this.

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The House recessed until the Sound of the Bell.

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