

MAINE STATE LEGISLATURE

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One Hundred and Twenty-First Legislature
State of Maine

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House Legislative Sentiments
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These imperfections limit the extent of market competition at various levels of the industry and have implications for relative bargaining power amongst industry participants at all levels, including logging contractors and workers. In this report we used the term monopoly to describe these imperfect market conditions. The market imperfections are felt most acutely in northern Maine. LD 1964 alleviates that pain felt most acutely in northern Maine, but it is a policy that will benefit the entire state. I ask you to support this bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Crystal, Representative Joy.

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House. Any action you take on this bill, either one way or the other is actually not going to help our loggers in any way. If you will recall in the not too distant past, three townships were sold by Irving and on Sunday I learned that have three more up for sale. One of those townships was bought by a lady who has no intention of allowing trees to be cut on her land. If she should wind up being the purchaser of those other three townships, that makes four townships that are out of production as far as our timber goes. I just wanted to make sure that the House was aware that one way or the other that this bill goes, it has no bearing on the future well being of our contractors. Thank you.

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

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

An Act To Clarify Legislative Pay

(S.P. 806) (L.D. 1961)

(S. "D" S-544)

Which was **TABLED** by Representative RICHARDSON of Brunswick pending **PASSAGE TO BE ENACTED**. (Roll Call Ordered)

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

ROLL CALL NO. 501

YEA - Adams, Ash, Barstow, Beaudette, Bennett, Blanchette, Bliss, Brannigan, Breault, Bull, Canavan, Carr, Clark, Clough, Cowger, Cummings, Curley, Davis, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Glynn, Grose, Hatch, Hutton, Jackson, Jennings, Kane, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, McGlocklin, McGowan, McKee, McLaughlin, Mills J, Moody, Norbert, Norton, O'Brien L, O'Neil, Paradis, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Richardson J, Rines, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Tobin J, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Andrews, Annis, Austin, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Bunker, Campbell, Churchill E, Collins, Courtney, Cressey, Crosthwaite, Daigle, Goodwin, Heidrich, Honey, Hotham, Jodrey, Joy, Kaelin, Ledwin, Lewin, Maietta, McCormick, McNeil, Millett, Moore, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson E, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Tardy, Tobin D, Trahan, Treadwell, Vaughan, Young.

ABSENT - Churchill J, Craven, Duprey B, Eder, Fletcher, Greeley, Jacobsen, Landry, Marraché, McKenney, Mills S, Patrick, Piotti, Sampson, Saviello, Sykes.

Yes, 80; No, 55; Absent, 16; Excused, 0.

80 having voted in the affirmative and 55 voted in the negative, with 16 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

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

Bill "An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2004 and June 30, 2005" (EMERGENCY)

(H.P. 1420) (L.D. 1919)

Which was **TABLED** by Representative RICHARDSON of Brunswick pending the motion to **INDEFINITELY POSTPONE House Amendment "Y" (H-951) to Committee Amendment "A" (H-904).**

The SPEAKER: The Chair recognizes the Representative from Saco, Representative O'Neil.

Representative O'NEIL: Mr. Speaker, Colleagues of the House. I encourage the body to vote against the pending motion. We had a bit of a flurry of activity when we considered this a little while ago. Since then I guess people have talked about it a little bit. I maintain what I said earlier. This is very straightforward and simple. It simplifies the insurance code greatly and really bails us out of a big, big mess.

Just to clear up one thing that one of my good colleagues just bounced off from me. He said that this somehow might hurt labor in general, the state employees specifically. This can't be further from the truth in that regard. If anything, those folks should love this. On day one this improves their benefits. A couple years down the road, God forbid we are facing a horrible structural gap, that is a pretty big piggy bank that is liable to be raided. The bill has provisions in it that account for that. I just wanted to make that clear Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Brannigan.

Representative BRANNIGAN: Mr. Speaker, Men and Women of the House. There is nothing simple or easy about this particular amendment. It is a major change in our budget, our health care system and in our taxes. I urge you to support the budget as you have and to defeat this amendment by voting for indefinite Postponement. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Dudley.

Representative DUDLEY: Mr. Speaker, Men and Women of the House. I find some of the ideas that the Representative from Saco proposes intriguing. I found them intriguing when I first saw them over a year ago in a bill that he proposed before the Insurance and Financial Services Committee. It was the committee that the Representative from Saco serves as a chairman of, a bill that that committee rejected. I also had an opportunity to spend a good deal of time with the Representative from Saco and others in the context of the Dirigo work and in further discussing some of the Representative from Saco's ideas. In the end, I decided to go ahead with ideas closer to what the Chief Executive had proposed relative to Dirigo Health. Many of these ideas are in conflict. I chose the Dirigo Health route. Frankly, at this point, I don't want to spend tonight, tomorrow and each day between now and the middle of the summer ironing out

the difficulties that this amendment proposes and the threat it proposes to Dirigo Health in order to someday a few months later begin to offer the promise of what Dirigo Health offers to Maine people and Maine businesses who so desperately need it, not several months from July, but they need it right now. Dirigo Health is set to enter the stage in July. I certainly don't want to delay it a single day more than it needs to. If there are ideas here that are worth discussing, and I think there are, I would be happy to take them up in the next legislative session.

I will finish my remarks by saying what perhaps concerns me more than any other aspect of the bill is its proposal to repeal all the mandates, all the health insurance mandates that we passed over the years. I know some of us might like to see some of them gone, but there are an awful lot of those mandates that an awful lot of us would support, including the mental health parity mandate that we passed just last year and which has not yet taken full effect. That mandate has made promises to certain people that it has yet to deliver upon. I, for one, am not prepared to remove that promise before it has had a chance to take affect. For that reason, I will be supporting the motion to Indefinitely Postpone.

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House. To anyone who may care to answer, can the Legislature pass a piece of legislation that affects the terms of a binding legal contract labor agreement?

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

Representative DAIGLE: Mr. Speaker, Ladies and Gentlemen of the House. I strongly urge you to vote against the pending motion to Indefinitely Postpone this amendment and give it a chance. I know as I walk around the halls and people stop me and they ask me how can you possibly support this. Please put yourself through the same three basic steps that I did with myself. First of all you ask yourself, is this a good deal for a good price? It is very simple. You just did you taxes back in April. What is 5 percent of your adjusted gross income? How much was that for you and your family, your sisters, your brothers, your neighbors and everybody else? Whatever that number was, ask yourself, would health care be a good deal to get it for this price? The answer is yes. The second question that you are going to have is one that I had, is this too good to be true? How could this possibly work? You understand the bill a little bit further. Talk to the Representative from Saco, Representative O'Neil on the side and listen to him when he talks about the cost of charity care and case management and health savings accounts and other factors that make this work. You realize that yes, this could work. This could be true. The third and final question you say is, could we possibly do it this late in the session? I know that is the one we are probably most sticking on right now. It is too late. This is too big. We couldn't possibly do it. Ladies and gentlemen, there was never another time when we were in a position to accept something this dramatic. There just never has been any. The euchre to overcome in this body is just phenomenal. It takes the position we are in right now to do this. Ask yourself this, which is what I asked myself, six years this makes that I have been up here, if we could come home with this, it could be the proudest moment of my legislative experience to do this. Are there problems with it? Are there flaws and things that I would like better? Yes there are. You know, if it meant coming back, I would do that. Nothing else we have done compares. In the

magnitude of this, nothing comes even close to this. It is affordable. It does work. We can do it in the time that we have. Please vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Richardson.

Representative RICHARDSON: Mr. Speaker, Men and Women of the House. I am supporting the Indefinite Postponement motion here and I am doing it for a number of different reasons. First, for those who were in the chamber when this first vote was taken, those who did vote obviously in favor of the good Representative from Saco's amendment, did so and increased as I understand it, the largest tax increase in Maine history, \$1.5 billion. That is done through a 5 percent income tax surcharge. That was voted on here earlier today. This is the eleventh hour and unfortunately as far as I can see, this shifts the state employees and retirees into Dirigo Health and violates what I consider to be a bipartisan agreement that was negotiated not that long ago. It takes the state employee health insurance contract and amends it without any input from state employees. That, I think, is something that we nor the state employees bargain for.

More importantly, it drains \$28.5 million from the State Employee Health Plan. Lastly, this is where I part ways with the good Representative from Saco. It takes millions of dollars away to conform with the Bush estate tax giveaway that I think further enriches 300 estates in this state to the decrement of many people who need the help. Frankly, the people in this state, those 300 wealthiest families. They don't need it and in many occasions they don't want this kind of relief. They would rather see the people who need it who are less advantaged who will get that kind of assistance. I am asking you to vote tonight to Indefinitely Postpone this particular amendment for the reasons I just stated. Thank you.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative O'Neil.

Representative O'NEIL: Mr. Speaker, Men and Women of the House. I appreciate and I relish the chance to talk health care. I always have and I always will. It is great that this body is embracing the idea. This is the final word on this from the sponsor. I would just like to clear up a couple of misreads that have happened. I understand it is a budget amendment and misreads can happen on two accounts. An earlier speaker, my great friend from Portland, Representative Dudley, talked about a former bill that was killed in the Insurance and Financial Services Committee. It was a bill that I sponsored. It is not this amendment, but in fairness to the Representative from Portland, Representative Dudley, there are some provisions within that bill whose spirit live on in this amendment.

Secondly, the implementation date of current Dirigo Health had been set in statute in July. We have since been told that it might be forthcoming in the fall, if then. The implementation date under this amendment would be January. One season doesn't seem to be that long a time.

A couple of other points, with respect to repealing the mandates, community rating, guaranteed issue, I maintain it would be wonderful to jettison those because we wouldn't need them. It would be like having an umbrella indoors to leave them in statute.

As to the question of whether labor agreements we violated, that is provided for in the bill. If not, it might be a coincidence with a contract that might be in conflict by a little bit of time, but that certainly could be dealt with.

Lastly, Mr. Speaker, in reference to a white sheet that landed on my desk distributed just a minute ago, I would just like to clear up a couple things on that that were probably the result of

misreads also. House Amendment "Y" would do the following. It uses words like crippling Dirigo Health. Mr. Speaker, quite to the contrary, it is not in conflict with Dirigo, it compliments it. It doesn't cripple Dirigo. It fixes it. It violates Medicaid law in Part FFFF. There is a provision there too Mr. Speaker that Dirigo's board would seek any waivers necessary. It violates the State Employee Health Insurance contracts without any input from state employees. Again, as I mentioned, that is accounted for.

Mr. Speaker, my friends in the House, substantial administrative costs would be subtracted not added. We have had numerous studies. I sponsored the study that the Health Security Board brought in. Several of our colleagues served on that and most of us have read it. There is no need to twist that either. Again, with respect to the state review of health insurance premium increases, superfluous. It is an extra layer of government that we don't need. We don't need an umbrella indoors. Mr. Speaker, again, I offered this not be obstructive. I offered this to be constructive. I didn't want to make it a political gain. I realized that I revere the work of the good folks on the Appropriations Committee. I value that. I will support what they have done. I maintain, Mr. Speaker, that if we need to tackle our band-aid mentality here. It is a tough spot that we are in, but we need to help ourselves. Maine doesn't have a whole lot to offer. We have nice weather a few months out of the year. We have a nice coastline with pretty views. We don't have a whole lot going for us in terms of bailing ourselves out. This would be a major step towards it.

Mr. Speaker, as I leave my service here there are many things of which I am very proud. I am most proud of what I have done to try to advance the lot of those who were consumers of health care in Maine. Without a single nefarious motive, Mr. Speaker, in my estimation, you can trust me on this, this is the best stab at it. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Dudley.

Representative **DUDLEY**: Mr. Speaker, Men and Women of the House. I don't relish for a moment getting up to speak in opposition to my good friend, the Representative from Saco, whose motives I would never impugn. He is a fine man with fine motives. He does mistakenly understand that Dirigo Health has been delayed. In fact, it has not. The Mainecare expansion within Dirigo Health is proposed to be delayed in this budget. However, Dirigo Health in its entirety is still on schedule and set to get off the ground in the middle of this summer. I wanted to correct him in that regard in particular. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Waterford, Representative Millett.

Representative **MILLETT**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to briefly explain why I supported the good Representative from Saco in his effort to present this amendment tonight in voting for the reconsideration. I did so earlier in the evening for three reasons. First, I respect the individual. As Representative Dudley indicated earlier, I had the chance and the privilege of serving with him on the joint select committee that produced the Dirigo legislation. I found him to be intelligent, fair-minded, an independent thinker and trustworthy. I like those characteristics. We need more of them.

Secondly, I felt for the first time when I heard someone from the other side of the aisle express the concern in very basic terms that I have tried to express over the last year and quarter that seemingly feeling like a voice in the wilderness at time about the economic morass, to use his words, and the closeness to the fiscal abyss and the fear of the structural gap upcoming. It was nice to hear those words.

Thirdly, I supported the reconsideration because of empathy for the way in which he was treated earlier in the evening, which I can empathize with and just want to share, very briefly, some concerns. First of all, it is degrading to anybody who spends a fair amount of time and energy coming up with what they think is a good idea, presenting it here in an open forum in full print explaining it, presenting it, opening oneself up to questions and debates and challenges and so on.

The SPEAKER: Would the Representative please defer? The Representative is straying quite far from motion at hand, which is the Indefinite Postponement of House Amendment "Y." The Chair would require that the Representative confine his remarks to that item. The Representative may proceed.

The Chair reminded Representative MILLETT of Waterford to confine his debate to the question before the House.

Representative **MILLETT**: Mr. Speaker, Men and Women of the House. I intend to vote for the Indefinite Postponement this evening, but I felt that I would like to express the concern over the way in which his efforts were subjective to the Indefinite Postponement treatment when, at the same time, this budget bill that we are talking about here tonight is so loaded up like a Christmas tree with ideas that floated out in the early morning hours with no preparation, no advanced warning, nothing in writing and here this individual has done his homework and presented some decent ideas to us this evening. I commend him for that. The ideas are novel. They are much beyond where I can go this evening. I will be voting against them. I would just like to thank him for this courage.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Kane.

Representative **KANE**: Mr. Speaker, Men and Women of the House. It is very difficult for me to oppose my colleague from Saco. We have served together here for eight years, both on the health care areas, he on Insurance and me on Health and Human Services. We have both been equally committed to developing the strongest and most cost effective health care systems as possible. I don't have any issues with the content. As Representative Dudley said earlier, there are some great ideas here. My problem is with the process. To have presented to us a complex and gargantuan piece of legislative work that will have profound impact for good or ill on our health care system without being subjected to the kind of scrutiny and process that all of us have experienced in our work. In our committee work everything that comes before this body is scrutinized by the committee and gets reviewed by the committee with recommendations and we act in the light of these recommendations. I am concerned not so much with potential benefits of the ideas that are in there. I think they will play out and they will find a place in our health care system in Maine. My concern is the pervasive impact and unforeseen and unanticipated consequences that none of us even know about and that we cannot even speculate on. We are going to be going home having made a decision that we don't understand the consequences of. With all due regard, respect and affection for my good friend from Saco, I encourage you to vote for the motion to Indefinitely Postpone. Thank you.

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Davis.

Representative **DAVIS**: Mr. Speaker, Men and Women of the House. I agree with Representative Millett and I also would like to speak to Representative Clark's question. Aren't you breaking the contract of the state workers? I was assured that you are. They have a contract. If you put this them in Dirigo without any negotiations it seems to me that you are breaking good faith and

you are breaking the contract. I will definitely be voting for Indefinite Postponement. Thank you.

The SPEAKER: The Chair recognizes the Representative from Winterport, Representative Kaelin.

Representative **KAELIN**: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **KAELIN**: Mr. Speaker, Ladies and Gentlemen of the House. If the Dirigo Health Program benefits are good enough for my constituents and for the employees of the small businesses that I represent, why isn't it good enough for the state employees of the Maine?

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative O'Brien.

Representative **O'BRIEN**: Mr. Speaker, Men and Women of the House. I would certainly have to apologize to many people if I did not get up as a state employee of 27 years and say that for anything to be presented to any group of employees without having always the chance to negotiate what they had, contracts negotiated are to be respected until they are changed by mutual agreement of all the parties, whether one is an employee or the employer, whether you are talking benefits, wages or anything to do with the area of employment. If there is a contract, it must be respected. I stand here to say not that the intentions were I am sure very honorable, but without considering the group that you are asking to just accept what was being put in front of them. Therefore, I, like many others, will vote to Indefinitely Postpone. Thank you.

The Chair ordered a division on the motion to **INDEFINITELY POSTPONE House Amendment "Y" (H-951) to Committee Amendment "A" (H-904)**.

Representative DAVIS of Falmouth **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "Y" (H-951) to Committee Amendment "A" (H-904)**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "Y" (H-951) to Committee Amendment "A" (H-904). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 502

YEA - Adams, Andrews, Ash, Austin, Barstow, Beaudette, Bennett, Berry, Berube, Blanchette, Bliss, Bowles, Brannigan, Breault, Brown R, Browne W, Bruno, Bryant-Deschenes, Bull, Bunker, Campbell, Canavan, Carr, Churchill E, Clark, Clough, Collins, Cowger, Crosthwaite, Cummings, Davis, Dudley, Dugay, Dunlap, Duplessie, Earle, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Glynn, Grose, Hatch, Honey, Hotham, Jackson, Jennings, Jodrey, Joy, Kaelin, Kane, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lewin, Lundeen, Mailhot, Makas, Marley, McCormick, McGlocklin, McKee, McLaughlin, Millett, Mills J, Moore, Murphy, Muse, Norbert, Norton, Nutting, O'Brien J, O'Brien L, Paradis, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Richardson E, Richardson J, Richardson M, Rogers, Shields, Simpson, Smith N, Smith W, Snowe-Mello, Stone, Sullivan, Suslovic, Tardy, Thomas, Thompson, Tobin D, Trahan, Twomey, Usher, Vaughan, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - Annis, Bierman, Bowen, Courtney, Cressey, Curley, Daigle, Goodwin, Heidrich, Ledwin, Maietta, McGowan, McNeil, Mills S, O'Neil, Peavey-Haskell, Rector, Rosen, Sherman, Sukeforth, Tobin J, Treadwell.

ABSENT - Churchill J, Craven, Duprey B, Duprey G, Eder, Fletcher, Greeley, Hutton, Jacobsen, Landry, Marraché,

McKenney, Moody, Patrick, Piotti, Rines, Sampson, Saviello, Sykes.

Yes, 110; No, 22; Absent, 19; Excused, 0.

110 having voted in the affirmative and 22 voted in the negative, with 19 being absent, and accordingly **House Amendment "Y" (H-951) to Committee Amendment "A" (H-904) was INDEFINITELY POSTPONED**.

Subsequently, **Committee Amendment "A" (H-904) as Amended by House Amendments "Q" (H-932), "T" (H-935), "V" (H-937), "Z" (H-958), "AA" (H-964) and "BB" (H-965) and Senate Amendments "A" (S-518) and "P" (S-543) thereto was ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-904) as Amended by House Amendments "Q" (H-932), "T" (H-935), "V" (H-937), "Z" (H-958), "AA" (H-964) and "BB" (H-965) and Senate Amendments "A" (S-518) and "P" (S-543) thereto in NON-CONCURRENCE** and sent for concurrence.

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

The following items were taken up out of order by unanimous consent:

**ENACTORS
Emergency Measure**

An Act To Correct Errors and Inconsistencies in the Laws of Maine

(H.P. 1418) (L.D. 1916)

(H. "A" H-923, H. "B" H-946, H. "C" H-947, H. "D" H-950, H. "E" H-952, H. "F" H-953, S. "A" S-552, S. "B" S-555 and S. "C" S-559 to C. "A" H-907)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 124 voted in favor of the same and 5 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

At this point the Speaker recognized all members who have served as Speaker Pro Tem during the 121st Legislature.

The SPEAKER: It is my great pleasure to recognize the 15 members of the House who have served this chamber as Speaker Pro Tems. It is with pleasure that I recognize these leaders. I thank them on behalf of all the members of the House for their service to this chamber. I want to present them with some ceremonial gavels. As I call your name would you please approach the rostrum on my right to receive your gavel. Representative Patricia A. Blanchette of Bangor who served as Speaker pro tem on January 8, and March 6, 2003. Representative Thomas D. Bull of Freeport who served as Speaker pro tem on May 21, 2003 and April 15, 2004. Representative Joseph E. Clark of Millinocket who served as Speaker pro tem on April 2, 2003, May 13, 2003, May 27, 2003, March 2, 2004 and April 1, 2004. Representative Glenn Cummings of Portland who served as Speaker pro tem on May 15, 2003. Representative Matthew Dunlap of Old Town who served as Speaker pro tem on March 6, 2003, March 27, 2003,