

# MAINE STATE LEGISLATURE

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Senate Legislative Record  
One Hundred and Twenty-Second Legislature

State of Maine

Daily Edition

First Special Session  
April 4, 2005 to June 17, 2005

Pages 411 - 1350

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

In Senate Chamber  
Thursday  
April 28, 2005

Senate called to order by President Beth Edmonds of  
Cumberland County.

Prayer by Pastor E. Terry Courtney of the Mt. Zion Chapel of  
Wells.

**PASTOR COURTNEY:** A missionary named Karen was killed in  
Iraq about a year ago. She was helping to provide food, clothing,  
and shelter for the needy. Before she left the United States she  
gave a sealed letter to the Pastor of her church. She requested  
that it be opened only if something happened to her. He opened  
it. Two words, 'No regrets.'

May we learn from our predecessors, though not up to date  
with the latest technology or marketing plans or the latest political  
strategies, but men and women of principle, godliness, and  
conviction, who founded our great nation. May we return to God  
of our fathers whom we have outgrown? One person with God's  
favor is a majority. Shall we pray?

Our heavenly Father, we know that if a man walk in the night,  
he stumbleth because there is no light in him. We pray for  
wisdom to work together to solve the problems that are in front of  
us. Wisdom of the world is earthly, changeable, and at very best,  
limited. Wisdom from above is peaceful, gentle, and workable.  
Lord, we have found that the problems are always wrapped in  
opportunities. Help us to see the opportunities and not just the  
problems. We pray for refreshing and renewal of our faith. In  
Jesus' name. Amen.

Reading of the Journal of Tuesday, April 26, 2005.

Off Record Remarks

Out of order and under suspension of the Rules, on motion by  
Senator **BRENNAN** of Cumberland, the following Joint Order:  
S.P. 587

ORDERED, the House concurring, that when the House stands  
adjourn it does so until Tuesday, May 3, 2005, at 9:00 in the  
morning and the Senate do so until Tuesday, May 3, 2005, at  
10:00 in the morning.

**READ and PASSED.**

Ordered sent down forthwith for concurrence.

PAPERS FROM THE HOUSE

Joint Resolution

The following Joint Resolution:

H.P. 1115

**JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF  
THE UNITED STATES AND THE CONGRESS OF THE UNITED  
STATES TO FULFILL THE INTENT TO FUND 40% OF THE  
COSTS OF SPECIAL EDUCATION AND TO END UNFUNDED  
MANDATES**

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

WHEREAS, the Congress of the United States has found  
that all children deserve a high-quality education, including  
children with disabilities; and

WHEREAS, the Individuals with Disabilities Education Act,  
20 United States Code, Section 1400, et seq., provides that the  
Federal Government and state and local governments are to  
share in the expense of education for children with disabilities and  
commits the Federal Government to provide funds to assist with  
the excess of expenses of education for children with disabilities;  
and

WHEREAS, the Congress of the United States has  
committed to contribute up to 40% of the average per-pupil  
expenditure of educating children with disabilities and the Federal  
Government has failed to meet this commitment to assist the  
states; and

WHEREAS, the Federal Government has never contributed  
more than a fraction of the national average per-pupil expenditure  
to assist with the excess expenses of educating children with  
disabilities under the Individuals with Disabilities Education Act;  
and

WHEREAS, this failure of the Federal Government to meet  
its commitment to assist with the excess expenses of educating a  
child with a disability contradicts the goal of ensuring that children  
with disabilities receive a high-quality education; and

WHEREAS, the imposition of unfunded mandates by the  
Federal Government on state governments interferes with the  
separation of powers between the 2 levels of government and the  
ability of each state to determine the issues and concerns of that  
state and what resources should be directed to address these  
issues and concerns; and

WHEREAS, the Federal Government recognized the  
inequalities of unfunded mandates on state governments when it  
passed the Unfunded Mandates Reform Act of 1995; and

WHEREAS, since the passage of the Unfunded Mandates Reform Act of 1995, however, the Federal Government continues to impose unfunded mandates on state governments, including in areas such as special education requirements; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and request that the President of the United States and the Congress of the United States either provide 40% of the national average per-pupil expenditure to assist states and local education agencies with the excess costs of educating children with disabilities or amend the Individuals with Disabilities Education Act to allow the states more flexibility in implementing its mandates; and be it further

RESOLVED: That We, your Memorialists, respectfully urge and request that the Congress of the United States revisit and reconfirm the Unfunded Mandate Reform Act of 1995 and put the intent and purpose of the Act into practice by ending the imposition of unfunded federal mandates on state governments; and be it further

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

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

**READ** and **ADOPTED**, in concurrence.

(See action later today.)

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Off Record Remarks

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**COMMUNICATIONS**

The Following Communication: S.P. 589

**122<sup>nd</sup> MAINE STATE LEGISLATURE  
AUGUSTA, MAINE 04333**

April 25, 2005  
Sen. Bruce S. Bryant  
Senate Chair, Joint Standing Committee on Inland Fisheries and Wildlife  
Rep. Thomas R. Watson  
House Chair, Joint Standing Committee on Inland Fisheries and Wildlife  
122<sup>nd</sup> Legislature  
Augusta, ME 04333

Dear Senator Bryant and Representative Watson:

Please be advised that Governor John E. Baldacci has nominated Ronald Usher of Westbrook and Sheridan Oldham of Waterville

for appointment and Robert Savage of Limington for reappointment as members of the Inland Fisheries and Wildlife Advisory Council.

Pursuant to Title 12 M.R.S.A. §10151, these nominations will require review by the Joint Standing Committee on Inland Fisheries and Wildlife.

Sincerely,

S/Beth Edmonds  
President of the Senate

S/John Richardson  
Speaker of the House

**READ** and **REFERRED** to the Committee on **INLAND FISHERIES AND WILDLIFE**.

Sent down for concurrence.

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The Following Communication: S.P. 592

**122<sup>nd</sup> MAINE STATE LEGISLATURE  
AUGUSTA, MAINE 04333**

April 25, 2005

Sen. Lynn Bromley  
Senate Chair, Joint Standing Committee on Business, Research and Economic Development  
Rep. Nancy E. Smith  
House Chair, Joint Standing Committee on Business, Research and Economic Development  
122<sup>nd</sup> Legislature  
Augusta, ME 04333

Dear Senator Bromley and Representative Smith:

Please be advised that Governor John E. Baldacci has nominated Anne Connors of Waterville and Edward Kane of South Portland for appointment as members of the Maine Educational Loan Authority.

Pursuant to Title 20-A M.R.S.A. §11415, these nominations will require review by the Joint Standing Committee on Business, Research and Economic Development.

Sincerely,

S/Beth Edmonds  
President of the Senate

S/John Richardson  
Speaker of the House

**READ** and **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**.

Sent down for concurrence.

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The Following Communication: S.C. 193

**MAINE STATE LEGISLATURE  
COMMITTEE ON MARINE RESOURCES  
AUGUSTA, MAINE 04333**

April 25, 2005

The Honorable Beth Edmonds  
President of the Senate of Maine  
122nd Maine Legislature  
State House  
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 122nd Maine Legislature, the Joint Standing Committee on Marine Resources has had under consideration the nomination of Vincent M. Balzano of Saco, for appointment to the Marine Resources Advisory Council.

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

YEAS	Senators	2	Damon of Hancock, Sullivan of York
	Representatives	6	Ash of Belfast, Cressey of Cornish, Emery of Cutler, Fletcher of Winslow, Kaelin of Winterport, Percy of Phippsburg
NAYS		0	
ABSENT		5	Rep. Adams of Portland, Sen. Andrews of York, Rep. Dugay of Cherryfield, Rep. Eder of Portland, Rep. Seavey of Kennebunkport

Eight members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Vincent M. Balzano of Saco, for appointment to the Marine Resources Advisory Council be confirmed.

Signed,

S/Dennis S. Damon  
Senate Chair

S/Leila J. Percy  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **MARINE RESOURCES** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 122<sup>nd</sup> Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#69)

**YEAS: Senators: None**

**NAYS: Senators: ANDREWS, BARTLETT, BRENNAN, BROMLEY, BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS**

**ABSENT: Senator: MILLS**

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Vincent M. Balzano** of Saco, for appointment to the Marine Resources Advisory Council was **CONFIRMED**.

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

The Following Communication: S.C. 194

**MAINE STATE LEGISLATURE  
COMMITTEE ON MARINE RESOURCES  
AUGUSTA, MAINE 04333**

April 25, 2005

The Honorable Beth Edmonds  
President of the Senate of Maine  
122nd Maine Legislature  
State House  
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 122nd Maine Legislature, the Joint Standing Committee on Marine Resources has had under consideration the nomination of Susan E. Farady of Cape Elizabeth, for appointment to the Marine Resources Advisory Council.

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

YEAS	Senators	2	Damon of Hancock, Sullivan of York
	Representatives	8	Adams of Portland, Ash of Belfast, Cressey of Cornish, Dugay of Cherryfield, Emery of Cutler, Fletcher of Winslow, Kaelin of Winterport, Percy of Phippsburg
NAYS		0	
ABSENT		3	Sen. Andrews of York, Rep. Eder of Portland, Rep. Seavey of Kennebunkport

Ten members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Susan E. Farady of Cape Elizabeth, for appointment to the Marine Resources Advisory Council be confirmed.

Signed,

S/Dennis S. Damon  
Senate Chair

S/Leila J. Percy  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **MARINE RESOURCES** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 122<sup>nd</sup> Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#70)

**YEAS: Senators: None**

**NAYS: Senators: ANDREWS, BARTLETT, BRENNAN, BROMLEY, BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON,**

**WOODCOCK, THE PRESIDENT - BETH G. EDMONDS**

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Susan E. Farady** of Cape Elizabeth, for appointment to the Marine Resources Advisory Council was **CONFIRMED**.

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

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On motion by Senator **GAGNON** of Kennebec, the Senate **RECONSIDERED** whereby **ADOPTED**, in concurrence, the following:

**JOINT RESOLUTION** - relative to memorializing the President of the United States and Congress of the United States to fulfill the intent to fund 40% of the costs of special education and to the end unfunded mandates.

H.P. 1115

(In House, April 26, 2005, **READ** and **ADOPTED**.)

On further motion by same Senator, **TABLED** until Later in Today's Session, pending **ADOPTION**, in concurrence.

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The Following Communication: S.C. 195

**MAINE STATE LEGISLATURE  
COMMITTEE ON MARINE RESOURCES  
AUGUSTA, MAINE 04333**

April 25, 2005

The Honorable Beth Edmonds  
President of the Senate of Maine  
122nd Maine Legislature  
State House  
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 122nd Maine Legislature, the Joint Standing Committee on Marine Resources has had under consideration the nomination of Dana B. Rice, Sr. of Birch Harbor, for reappointment to the Marine Resources Advisory Council.

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

YEAS	Senators	2	Damon of Hancock, Sullivan of York
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Representatives 7 Adams of Portland, Ash of Belfast, Cressey of Cornish, Emery of Cutler, Fletcher of Winslow, Kaelin of Winterport, Percy of Phippsburg

NAYS 0

ABSENT 4 Sen. Andrews of York, Rep. Dugay of Cherryfield, Rep. Eder of Portland, Rep. Seavey of Kennebunkport

Nine members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Dana B. Rice, Sr. of Birch Harbor, for reappointment to the Marine Resources Advisory Council be confirmed.

Signed,

S/Dennis S. Damon  
Senate Chair

S/Leila J. Percy  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **MARINE RESOURCES** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 122<sup>nd</sup> Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#71)

**YEAS: Senators: None**

**NAYS: Senators: ANDREWS, BARTLETT, BRENNAN, BROMLEY, BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS**

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED**

and the nomination of **Dana B. Rice, Sr.** of Birch Harbor, for reappointment to the Marine Resources Advisory Council was **CONFIRMED.**

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

The Following Communication: S.C. 196

**MAINE STATE LEGISLATURE  
COMMITTEE ON MARINE RESOURCES  
AUGUSTA, MAINE 04333**

April 25, 2005

The Honorable Beth Edmonds  
President of the Senate of Maine  
122nd Maine Legislature  
State House  
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 122nd Maine Legislature, the Joint Standing Committee on Marine Resources has had under consideration the nomination of Glen A. Libby of Port Clyde, for appointment to the Marine Resources Advisory Council.

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

YEAS	Senators	2	Damon of Hancock, Sullivan of York
	Representatives	8	Adams of Portland, Ash of Belfast, Cressey of Cornish, Dugay of Cherryfield, Emery of Cutler, Fletcher of Winslow, Kaelin of Winterport, Percy of Phippsburg

NAYS 0

ABSENT 3 Sen. Andrews of York, Rep. Eder of Portland, Rep. Seavey of Kennebunkport

Ten members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Glen A. Libby of Port Clyde, for appointment to the Marine Resources Advisory Council be confirmed.

Signed,

S/Dennis S. Damon  
Senate Chair

S/Leila J. Percy  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **MARINE RESOURCES** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 122<sup>nd</sup> Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#72)

**YEAS: Senators: None**

**NAYS: Senators: ANDREWS, BARTLETT, BRENNAN, BROMLEY, BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS**

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Glen A. Libby** of Port Clyde, for appointment to the Marine Resources Advisory Council was **CONFIRMED**.

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

The Following Communication: S.C. 197

**MAINE STATE LEGISLATURE  
COMMITTEE ON MARINE RESOURCES  
AUGUSTA, MAINE 04333**

April 25, 2005

The Honorable Beth Edmonds  
President of the Senate of Maine  
122nd Maine Legislature  
State House  
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 122nd Maine Legislature, the Joint Standing Committee on Marine Resources has had under consideration the nomination of Timothy J. Kief of Hancock, for appointment to the Marine Resources Advisory Council.

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

YEAS	Senators	2	Damon of Hancock, Sullivan of York
	Representatives	7	Adams of Portland, Ash of Belfast, Dugay of Cherryfield, Emery of Cutler, Fletcher of Winslow, Kaelin of Winterport, Percy of Phippsburg
NAYS		0	
ABSENT		4	Sen. Andrews of York, Rep. Cressey of Cornish, Rep. Eder of Portland, Rep. Seavey of Kennebunkport

Nine members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Timothy J. Kief of Hancock, for appointment to the Marine Resources Advisory Council be confirmed.

Signed,

S/Dennis S. Damon  
Senate Chair

S/Leila J. Percy  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **MARINE RESOURCES** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 122<sup>nd</sup> Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.



ROLL CALL (#73)

Brunswick, Nass of Acton,  
Pelletier-Simpson of Auburn,  
Sherman of Hodgdon

**YEAS: Senators: None**

**NAYS: Senators: ANDREWS, BARTLETT, BRENNAN, BROMLEY, BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS**

NAYS 0

ABSENT 2 Sen. Bromley of Cumberland,  
Rep. Bryant-Deschenes of  
Turner

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Honorable Donald G. Alexander of Winthrop, for reappointment as a Supreme Court Justice be confirmed.  
Signed,

S/Barry J. Hobbins  
Senate Chair

S/Deborah Pelletier-Simpson  
House Chair

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Timothy J. Kief** of Hancock, for appointment to the Marine Resources Advisory Council was **CONFIRMED**.

**READ and ORDERED PLACED ON FILE.**

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

The President laid before the Senate the following: "Shall the recommendation of the Committee on **JUDICIARY** be overridden?"

The Following Communication: S.C. 199

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 122<sup>nd</sup> Legislature, the vote was taken by the Yeas and Nays.

**MAINE STATE LEGISLATURE  
COMMITTEE ON JUDICIARY  
AUGUSTA, MAINE 04333**

The Doorkeepers secured the Chamber.

April 26, 2005

The Secretary opened the vote.

The Honorable Beth Edmonds  
President of the Senate of Maine  
122nd Maine Legislature  
State House  
Augusta, Maine 04333-0003

ROLL CALL (#74)

**YEAS: Senator: PLOWMAN**

**NAYS: Senators: ANDREWS, BARTLETT, BRENNAN, BROMLEY, BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NASS, NUTTING, PERRY, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS**

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 122nd Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Honorable Donald G. Alexander of Winthrop, for reappointment as a Supreme Court Justice.

1 Senator having voted in the affirmative and 34 Senators having voted in the negative, and 1 being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of the Honorable **Donald G. Alexander** of Winthrop, for reappointment as a Supreme Court Justice was **CONFIRMED**.

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

YEAS	Senators	2	Hastings of Cumberland, Hobbins of York
	Representatives	9	Bryant of Windham, Canavan of Waterville, Carr of Lincoln, Dunn of Bangor, Faircloth of Bangor, Gerzofsky of

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

LEGISLATIVE RECORD - SENATE, THURSDAY, APRIL 28, 2005

The Following Communication: S.C. 200

**MAINE STATE LEGISLATURE  
COMMITTEE ON JUDICIARY  
AUGUSTA, MAINE 04333**

April 26, 2005

The Honorable Beth Edmonds  
President of the Senate of Maine  
122nd Maine Legislature  
State House  
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 122nd Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Honorable Susan W. Calkins of Portland, for reappointment as a Supreme Court Justice.

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

YEAS	Senators	3	Bromley of Cumberland, Hastings of Cumberland, Hobbins of York
	Representatives	9	Bryant of Windham, Canavan of Waterville, Carr of Lincoln, Dunn of Bangor, Faircloth of Bangor, Gerzofsky of Brunswick, Nass of Acton, Pelletier-Simpson of Auburn, Sherman of Hodgdon
NAYS		0	
ABSENT		1	Rep. Bryant-Deschenes of Turner

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Honorable Susan W. Calkins of Portland, for reappointment as a Supreme Court Justice be confirmed.

Signed,

S/Barry J. Hobbins  
Senate Chair

S/Deborah Pelletier-Simpson  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **JUDICIARY** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 122<sup>nd</sup> Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#75)

**YEAS: Senators: None**

**NAYS: Senators: ANDREWS, BARTLETT, BRENNAN, BROMLEY, BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS**

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of the Honorable **Susan W. Calkins** of Portland, for reappointment as a Supreme Court Justice was **CONFIRMED**.

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

The Following Communication: S.C. 201

**MAINE STATE LEGISLATURE  
COMMITTEE ON JUDICIARY  
AUGUSTA, MAINE 04333**

April 26, 2005

The Honorable Beth Edmonds  
President of the Senate of Maine  
122nd Maine Legislature  
State House  
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 122nd Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Honorable Kevin L. Stitham of Dover-Foxcroft, for reappointment as a District Court Judge.

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

YEAS	Senators	2	Hastings of Cumberland, Hobbins of York
	Representatives	9	Bryant of Windham, Canavan of Waterville, Carr of Lincoln, Dunn of Bangor, Faircloth of Bangor, Gerzofsky of Brunswick, Nass of Acton, Pelletier-Simpson of Auburn, Sherman of Hodgdon

NAYS 0

ABSENT		2	Sen. Bromley of Cumberland, Rep. Bryant-Deschenes of Turner
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Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Honorable Kevin L. Stitham of Dover-Foxcroft, for reappointment as a District Court Judge be confirmed.

Signed,

S/Barry J. Hobbins  
Senate Chair

S/Deborah Pelletier-Simpson  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **JUDICIARY** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 122<sup>nd</sup> Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#76)

**YEAS: Senators: None**

**NAYS: Senators: ANDREWS, BARTLETT, BRENNAN, BROMLEY, BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON,**

**WOODCOCK, THE PRESIDENT - BETH G. EDMONDS**

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of the Honorable **Kevin L. Stitham** of Dover-Foxcroft, for reappointment as a District Court Judge was **CONFIRMED**.

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

The Following Communication: S.C. 202

**MAINE STATE LEGISLATURE  
COMMITTEE ON JUDICIARY  
AUGUSTA, MAINE 04333**

April 26, 2005

The Honorable Beth Edmonds  
President of the Senate of Maine  
122nd Maine Legislature  
State House  
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 122nd Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Honorable G. Arthur Brennan of York, for reappointment as a Superior Court Justice.

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

YEAS	Senators	2	Hastings of Cumberland, Hobbins of York
	Representatives	9	Bryant of Windham, Canavan of Waterville, Carr of Lincoln, Dunn of Bangor, Faircloth of Bangor, Gerzofsky of Brunswick, Nass of Acton, Pelletier-Simpson of Auburn, Sherman of Hodgdon

NAYS 0

ABSENT		2	Sen. Bromley of Cumberland, Rep. Bryant-Deschenes of Turner
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Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Honorable G. Arthur Brennan of York, for reappointment as a Superior Court Justice be confirmed.  
Signed,

S/Barry J. Hobbins  
Senate Chair

S/Deborah Pelletier-Simpson  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **JUDICIARY** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 122<sup>nd</sup> Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#77)**

YEAS: Senators: None

NAYS: Senators: ANDREWS, BARTLETT, BRENNAN, BROMLEY, BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of the Honorable **G. Arthur Brennan** of York, for reappointment as a Superior Court Justice was **CONFIRMED**.

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

The Following Communication: S.C. 203

**MAINE STATE LEGISLATURE  
COMMITTEE ON LABOR  
AUGUSTA, MAINE 04333**

April 26, 2005

The Honorable Beth Edmonds  
President of the Senate of Maine  
122nd Maine Legislature  
State House  
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 122nd Maine Legislature, the Joint Standing Committee on Labor has had under consideration the nomination of Anthony J. Peverada, Jr. of South Portland, for appointment to the Maine Unemployment Insurance Commission.

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

YEAS	Senators	2	Snowe-Mello of Androscoggin, Strimling of Cumberland
	Representatives	9	Clark of Millinocket, Cressey of Cornish, Driscoll of Westbrook, Duprey of Hampden, Hall of Holden, Hamper of Oxford, Hutton of Bowdoinham, Jackson of Fort Kent, Tuttle of Sanford
	NAYS	0	
	ABSENT	2	Sen. Bartlett of Cumberland, Rep. Smith of Van Buren

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Anthony J. Peverada, Jr. of South Portland, for appointment to the Maine Unemployment Insurance Commission be confirmed.

Signed,

S/Ethan Strimling  
Senate Chair

S/William J. Smith  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **LABOR** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 122<sup>nd</sup> Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#78)**

YEAS: Senators: None

NAYS: Senators: ANDREWS, BARTLETT, BRENNAN, BROMLEY, BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Anthony J. Peverada, Jr.** of South Portland, for appointment to the Maine Unemployment Insurance Commission was **CONFIRMED**.

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

**THE PRESIDENT:** The Chair is pleased to recognize in the rear of the chamber Anthony Peverada, Jr. of South Portland. Would he please rise and accept the greetings of the Maine Senate.

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The Following Communication: S.C. 198

**MAINE STATE LEGISLATURE  
COMMITTEE ON APPROPRIATIONS AND FINANCIAL  
AFFAIRS  
AUGUSTA, MAINE 04333**

April 19, 2005

Honorable Beth Edmonds, President of the Senate  
Honorable John Richardson, Speaker of the House  
122nd Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

- L.D. 30 An Act To Apply a System of Spending Limitations to State, County and Municipal Governments and School Administrative Units
- L.D. 206 An Act To Transfer Funds to the Maine Clean Election Fund

- L.D. 410 An Act To Provide Funding for Hospices in Maine
- L.D. 871 An Act To Recapitalize the Municipal Investment Trust Fund
- L.D. 1291 An Act To Fund Fully the Purchase of Military Time

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

Sincerely,

S/Sen. Margaret Rotundo  
Senate Chair

S/Rep. Joseph C. Brannigan  
House Chair

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

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**SENATE PAPERS**

Bill "An Act To Establish Harbor Master Standards and Training Requirements"

S.P. 584 L.D. 1603

Sponsored by Senator DAMON of Hancock.  
Cosponsored by Representative PERCY of Phippsburg and Senator: President EDMONDS of Cumberland, Representatives: ADAMS of Portland, ASH of Belfast, CRESSEY of Cornish, EMERY of Cutler, KAELIN of Winterport.  
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

On motion by Senator **DIAMOND** of Cumberland, **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed.

Sent down for concurrence.

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Bill "An Act To Establish the Uniform Partnership Act"

S.P. 591 L.D. 1609

Sponsored by Senator HOBBS of York.

On motion by Senator **HOBBS** of York, **REFERRED** to the Committee on **JUDICIARY** and ordered printed.

Sent down for concurrence.

---

Bill "An Act To Restructure the Unfunded Liability of the Maine State Retirement System"

S.P. 585 L.D. 1604

Sponsored by Senator STRIMLING of Cumberland.  
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

On motion by Senator **STRIMLING** of Cumberland, **REFERRED** to the Committee on **LABOR** and ordered printed.

Sent down for concurrence.

---

Bill "An Act Regarding Voter Registration Cards"

S.P. 583 L.D. 1602

Sponsored by Senator MITCHELL of Kennebec.  
Cosponsored by Representative: FISHER of Brewer.  
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Resolve, To Establish a Study Commission To Study Methods To Improve Ballot Access (EMERGENCY)

S.P. 590 L.D. 1608

Sponsored by Senator GAGNON of Kennebec.  
Cosponsored by Representative PATRICK of Rumford.  
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

On motion by Senator **GAGNON** of Kennebec, **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** and ordered printed.

Sent down for concurrence.

---

Bill "An Act To Reform the Income Tax for Middle-income and Lower-income Families"

S.P. 586 L.D. 1605

Sponsored by Senator STRIMLING of Cumberland.  
Cosponsored by Representative WOODBURY of Yarmouth and Senators: ROSEN of Hancock, MILLS of Somerset, DOW of Lincoln, NUTTING of Androscoggin, DAMON of Hancock, TURNER of Cumberland, RAYE of Washington, PERRY of Penobscot.

On motion by Senator **PERRY** of Penobscot, **REFERRED** to the Committee on **TAXATION** and ordered printed.

Sent down for concurrence.

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

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## ORDERS

### Joint Resolutions

On motion by Senator **MAYO** of Sagadahoc (Cosponsored by Representative WATSON of Bath and Representatives: GROSE of Woolwich, PERCY of Phippsburg), the following Joint Resolution:

S.P. 582

### JOINT RESOLUTION RECOGNIZING BATH AS ONE OF AMERICA'S DOZEN DISTINCTIVE DESTINATIONS

WHEREAS, each year since 2000, the National Trust for Historic Preservation has chosen a dozen communities from across the country that offer visitors enjoyable natural, historic, aesthetic, recreational and cultural experiences. Criteria include a dynamic downtown, commitment to historic preservation, interesting architecture, cultural diversity, an economic base of locally owned small businesses and walking access for residents and visitors; and

WHEREAS, the National Trust for Historic Preservation named the City of Bath as one of America's Dozen Distinctive Destinations for 2005, calling it "a jewel hidden in plain sight" and describing it as "a small, historic and relatively unspoiled New England town." The National Trust also proclaimed that "Bath had the good sense to hang on to what makes it so special" and that "the result is a vibrant community that offers travelers an ideal retreat"; and

WHEREAS, the National Trust cited Bath as "an old seafaring town that has reinvented itself as one of the best small cities in America. The area's proud maritime history dates from the launching in 1607 of the first ship built in the New World by English settlers. For centuries, shipyards that lined the river's edge sent wooden sailing ships, steel vessels, and graceful yachts around the world. Today the Bath Iron Works, founded in 1884, carries on the proud shipbuilding tradition of turning out frigates and destroyers"; and

WHEREAS, this is not the first time that Bath has been honored by the National Trust, as the National Trust presented its President's Award in 1977 to Sagadahoc Preservation, Inc., the Maine Maritime Museum, the Bath Area Chamber of Commerce and the Bath city government for their exemplary cooperative preservationist achievement in downtown restoration; and

WHEREAS, the city is home to the acclaimed Maine Maritime Museum and has a historic district that shows the carefully preserved homes and businesses that exemplify classic American architecture and displays an important part of Maine's heritage; now, therefore be it

RESOLVED: That We, the Members of the One Hundred and Twenty-second Legislature, now assembled on behalf of the people we represent, take this opportunity to extend our congratulations to the City of Bath on being named one of America's Dozen Distinctive Destinations; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the City of Bath with our best wishes for its continued dedication to preserving and protecting that city's character and sense of place.

**READ.**

**THE PRESIDENT:** The Chair recognizes the Senator from Sagadahoc, Senator Mayo.

Senator **MAYO:** Thank you, Madame President, ladies and gentlemen of the Senate. I rise today to indicate my happiness and the happiness of many of us in the mid-coast area with the fact that the City of Bath was one of 12 cities in this country to receive a designation from the National Trust for Historic Preservation. The only other community in the State of Maine to have received such an award is the City of Portland a couple of years ago. We, in Bath, certainly intend to see that this designation is included in all material pertaining to that city. We are very happy to be so designated. Thank you, Madame President.

**ADOPTED.**

Sent down for concurrence.

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On motion by Senator **ROTUNDO** of Androscoggin (Cosponsored by Representative **MAKAS** of Lewiston and Senators: **BRENNAN** of Cumberland, **DAVIS** of Piscataquis, **DOW** of Lincoln, President **EDMONDS** of Cumberland, **GAGNON** of Kennebec, **MAYO** of Sagadahoc, **MILLS** of Somerset, **RAYE** of Washington, **WESTON** of Waldo, Representatives: **ADAMS** of Portland, **BABBIDGE** of Kennebunk, **BEAUDETTE** of Biddeford, **BERUBE** of Lisbon, **BOWLES** of Sanford, **CARR** of Lincoln, **CLARK** of Millinocket, **CRAVEN** of Lewiston, **CROSBY** of Topsham, **CUMMINGS** of Portland, **DAVIS** of Falmouth, **DRISCOLL** of Westbrook, **DUPLESSIE** of Westbrook, **FARRINGTON** of Gorham, **HANLEY** of Gardiner, **LINDELL** of Frankfort, **MAZUREK** of Rockland, **MILLETT** of Waterford, **O'BRIEN** of Lewiston, **PARADIS** of Frenchville, **PELLETIER-SIMPSON** of Auburn, Speaker **RICHARDSON** of Brunswick, **SAMPSON** of Auburn, **SHIELDS** of Auburn, **STEDMAN** of Hartland, **TARDY** of Newport, **TUTTLE** of Sanford, **WALCOTT** of Lewiston), the following Joint Resolution: S.P. 588

**JOINT RESOLUTION RECOGNIZING  
BATES COLLEGE ON ITS 150TH ANNIVERSARY**

WHEREAS, 150 years ago, education leaders in Maine, including Oren B. Cheney, a former member of the Maine Legislature, saw a great, unmet need in the State: to broaden the educational opportunities for young men and women through the founding of a new institution of higher learning; and

WHEREAS, citizens of 49 Maine towns, from Biddeford and Portland in the south to Corinna in the north, from Parsonsfield in the west to Brooks in the east, then petitioned the Maine Legislature, requesting that the Legislature incorporate and endow a "Literary Institution . . . of a high order, on a broad basis, and centrally located"; and

WHEREAS, the Maine Legislature on March 16, 1855 granted a charter and financial support for this new school, at first called the Maine State Seminary, to be located in Lewiston, a choice of location that respected the guidance and support of Alonzo Garcelon, member of the Maine Legislature and leading citizen of that city, who, it is written, "had his heart set on it coming to the city"; and

WHEREAS, Oren B. Cheney and his fellow founders of this school sought to create a college with egalitarian ideals, in keeping with and reflecting the spirit of fairness, independence, hard work and good will of the State of Maine; and

WHEREAS, the Maine State Seminary became Bates College in 1864, its new name honoring the philanthropy of Benjamin E. Bates, an industrialist and early developer of Lewiston manufacturing, who believed in the power of education to benefit the economic and social weal; and

WHEREAS, the motto of Bates College is the Latin phrase *Amore ac Studio*, "with ardor and devotion," which complements the spirit evoked by the State of Maine motto, *Dirigo*, "I lead," admirable qualities embodied by Bates College graduates who have served the public good of our State and our nation, epitomized by the late Edmund S. Muskie of the Class of 1936, Maine governor, United States Senator, United States Secretary of State and son of Maine; and WHEREAS, the founders of Bates College were ahead of their time with a belief in coeducation and "a woman's God-given freedom to do anything for which she has the ability," and the first female Bates College graduate in 1869, Mary Wheelwright Mitchell of Dover-Foxcroft, worked in the mills to pay for college yet once politely turned down a scholarship from Maine's governor, requesting that the scholarship be provided to someone more needy than herself; and

WHEREAS, Bates College has stood throughout its history for the pursuit of social justice and equality, broadly defined, reflecting the beliefs of its founders, who were fervent abolitionists. Bates College graduates have linked education with service, leadership and obligations beyond themselves, qualities embodied in alumni such as the renowned civil rights leader Benjamin E. Mays, who graduated in 1920, served as president of Morehouse College and was the teacher and mentor of the Reverend Martin Luther King, Jr.; and

WHEREAS, many thousands of Bates College graduates, in the fields of business, law, science, medicine, education and the arts and in other fields, exercise these qualities of leadership, citizenship and collaborative spirit, helping to sustain and better the communities, careers and endeavors in which they strive; and

WHEREAS, the first class to graduate from Bates College comprised 8 students, all native-born Mainers; today the college enrolls 1,700 students who represent 48 states, the District of Columbia and 72 countries around the world and with great pride continues to enroll more than 150 students each year from the State of Maine; and

WHEREAS, Bates College celebrates its presence in Lewiston and Auburn, communities that help to inspire the academic lives of both students and professors. Through Bates College programs that integrate service into the intellectual life of the college and bring campus and community closer together, service-learning students give more than 40,000 hours of service annually to 120 community agencies, schools and institutions; and

WHEREAS, Bates College students and faculty rejoice in the college's location in the beautiful State of Maine, and they explore from the coast to the mountains through academic and extracurricular programs, from kayaking trips along the Maine coast for geology courses and research at Bates-Morse Mountain Conservation Area in Phippsburg to annual orientation trips for new students that introduce each incoming class to the splendor and joy to be found in Maine's environment; and

WHEREAS, Bates College is today a national college of the liberal arts and sciences that prizes the inherent values of a demanding education and the profound usefulness of learning and understanding and is committed to academic rigor and ensuring in all its efforts the dignity of the individual and, by means of scholarship aid, access to its programs and opportunities by qualified learners; now, therefore, be it

RESOLVED: That We, the Members of the Senate and the House of Representatives of the One Hundred and Twenty-second Legislature, now assembled in the First Special Session, join in recognizing Bates College upon its 150th anniversary and for its unswerving commitment to providing an education in the liberal arts and sciences, recognizing their critical role in a just and civil society; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the President and the Chair of the Board of Trustees of Bates College.

**READ.**

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

Senator **ROTUNDO:** Thank you, Madame President. I do want to take this opportunity to recognize the 150<sup>th</sup> anniversary of the chartering of Bates College by the Maine State Legislature. I think about the foresight the Maine State Legislature had 150 years ago to charter this institution and also to help fund it at that point and I hope that 150 years from now people can look back at the work we're doing now and say how wise we were and what foresight we had. We're very fortunate in Maine to have such wonderful higher education institutions. We have three of the very finest private schools in the nation here in Maine and Bates is one of them. Bates was recently voted in a national survey as one of the best values that people going to college can receive. We also are proud of the fact that the college was also recognized as one of a handful of colleges with conscience. There are many reasons to be proud of all of our institutions, and as Lewiston's state Senator, I'm particularly proud to be able to represent Bates College and excited that we can acknowledge this anniversary today. Thank you.

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

Senator **GAGNON:** Thank you, Madame President. I want to join my colleague in congratulating Bates College. As many of you know, I come from the blue college that is a little further north, Colby. We have a running rivalry between Colby and Bates on an ongoing basis. I do want to echo how fortunate the State of Maine is. We have many fine colleges in the state, with three in particular, Bowdoin, Bates, and Colby. I don't think people realize what kind of jewels we have and that these are within the top 20 of institutions in the entire country on a regular basis. We are fortunate to have them here in the State of Maine. While the rivalry will continue between the Mules and the Bobcats and those other animals further south, I do want to join with the good Senator from Androscoggin, Senator Rotundo, in congratulating Bates College. It's a really fine institution. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Snowe-Mello.

Senator **SNOWE-MELLO:** Thank you, Madame President. I also want to stand here today to congratulate Bates College. I actually have family members that have attended Bates College. My dad went to Bates and my nephew, David, graduated from Bates also. I've a lot of very fond memories of Bates College and a lot of very old photographs of Bates College years ago. Bates College, I think, is one of the finest universities, finest colleges, in the whole United States. I am very proud that Lewiston/Auburn has Bates College within their community. Bates College has contributed in many ways to Lewiston/Auburn through many works of good service. They open up their facility to all kinds of groups that come in and speak or hold conferences. It's truly a wonderful institution and I'm very proud of them.

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

Senator **RAYE:** Thank you, Madame President. I rise as a proud 'Batesy', class of 1983, to join the Senator from Androscoggin, Senator Rotundo, and the others who have spoken here this morning in tribute to academia batissimus. I feel I owe a debt of gratitude to this fine institution for the education that I received there and I just want to rise on behalf of all Bates alumni to say go Bobcats.

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator Sullivan.

Senator **SULLIVAN:** Thank you, Madame President. I needed to rise to let you know that I, too, am pleased to know and appreciate Bates College on two levels. Today, as an educator in our system, I understand the importance of education. More importantly, as a young child, I was a family of three. My oldest brother went off to college and it happened to be Bates. For us, and this will give you an idea of my age, it meant more time for me to spend on the party line telephone line that we had at the time, it meant more time for the one family car we owned, and it meant more time for the one black and white television we owned. I was very thankful to Bates College because my big brother went away. Certainly my appreciation has changed. It



was a good institution when I viewed it as a sister sending the brother away, getting him out of my hair. Today I view it on, hopefully, an older, more mature idea that this is good for Maine people. Thank you for representing Lewiston.

On motion by Senator **ROTUNDO** of Androscoggin, **ADOPTED**.

Sent down for concurrence.

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Off Record Remarks

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

Senator **SNOWE-MELLO** of Androscoggin was granted unanimous consent to address the Senate off the Record.

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Off Record Remarks

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**RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

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**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Exempt Certain Religious, Nonpublic, Postsecondary Institutions from Licensure"

H.P. 309 L.D. 424

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-128)**.

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

**READ ONCE.**

Committee Amendment "A" (H-128) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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The Committee on **TRANSPORTATION** on Bill "An Act To Create a Retired Firefighter License Plate"

H.P. 273 L.D. 360

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-131)**.

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

**READ ONCE.**

Committee Amendment "A" (H-131) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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**Divided Report**

The Majority of the Committee on **MARINE RESOURCES** on Bill "An Act To Change the Noncommercial Scallop Season"

H.P. 523 L.D. 728

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

Signed:

Senators:

DAMON of Hancock  
SULLIVAN of York

Representatives:

PERCY of Phippsburg  
EMERY of Cutler  
SEAVEY of Kennebunkport  
DUGAY of Cherryfield  
ASH of Belfast  
KAELIN of Winterport  
ADAMS of Portland

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-142)**.

Signed:

Representatives:

FLETCHER of Winslow  
CRESSEY of Cornish  
EDER of Portland

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

Reports **READ**.

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

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**Divided Report**

The Majority of the Committee on **NATURAL RESOURCES** on Bill "An Act To Waive Application Fees on Certain Department of Environmental Protection and Department of Transportation Projects"

H.P. 289 L.D. 387

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

Signed:

Senators:

COWGER of Kennebec  
MARTIN of Aroostook

Representatives:

KOFFMAN of Bar Harbor  
THOMPSON of China  
ANNIS of Dover-Foxcroft  
EBERLE of South Portland  
DAIGLE of Arundel  
SAVIELLO of Wilton  
DUCHESNE of Hudson  
ROSEN of Bucksport  
TWOMEY of Biddeford

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-154)**.

Signed:

Senator:

SNOWE-MELLO of Androscoggin

Representative:

JOY of Crystal

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

Reports **READ**.

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

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Off Record Remarks

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**Divided Report**

The Majority of the Committee on **NATURAL RESOURCES** on Bill "An Act To Provide Adequate Funding for the Enforcement of Environmental Laws"

H.P. 744 L.D. 1091

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

Signed:

Senators:

COWGER of Kennebec  
MARTIN of Aroostook  
SNOWE-MELLO of Androscoggin

Representatives:

KOFFMAN of Bar Harbor  
THOMPSON of China  
ANNIS of Dover-Foxcroft  
EBERLE of South Portland  
DAIGLE of Arundel  
SAVIELLO of Wilton  
DUCHESNE of Hudson  
ROSEN of Bucksport

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-143)**.

Signed:

Representative:

TWOMEY of Biddeford

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

Reports **READ**.

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

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**Divided Report**

The Majority of the Committee on **TAXATION** on Bill "An Act To Encourage More Dentists To Practice in the State"

H.P. 443 L.D. 610

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

Signed:

Senators:

PERRY of Penobscot  
COURTNEY of York

Representatives:

HANLEY of Paris  
McCORMICK of West Gardiner  
WOODBURY of Yarmouth  
CLOUGH of Scarborough  
BIERMAN of Sorrento  
SEAVEY of Kennebunkport  
WATSON of Bath

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-177)**.

Signed:

Senator:

STRIMLING of Cumberland

Representatives:

CLARK of Millinocket  
PINEAU of Jay  
HUTTON of Bowdoinham

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

Reports **READ**.

Senator **PERRY** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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

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**Divided Report**

The Majority of the Committee on **TAXATION** on Bill "An Act To Exempt from the Sales Tax Electricity Used by a Senior Citizen To Heat a Home"

H.P. 769 L.D. 1116

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

Signed:

Senators:

PERRY of Penobscot  
STRIMLING of Cumberland

Representatives:

HANLEY of Paris  
CLARK of Millinocket  
McCORMICK of West Gardiner  
WOODBURY of Yarmouth  
CLOUGH of Scarborough  
PINEAU of Jay  
BIERMAN of Sorrento  
HUTTON of Bowdoinham

SEAVEY of Kennebunkport  
WATSON of Bath

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-175)**.

Signed:

Senator:

COURTNEY of York

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

Reports **READ**.

Senator **PERRY** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator Courtney.

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. I will be real brief and explain why I voted this report out. I guess I'm out there by myself a little bit. I think it was the feeling of many in the committee that it was a piece that was too expensive to fund. What this bill will do is provide a tax exemption for senior citizens for paying sales tax on them heating their homes. It seems to me like it's a pretty worthy cause. Currently, your home electricity charges are exempt until you hit 750 kilowatt hours. When you exceed 750 kilowatt hours you have to pay sales tax on that. What this would do is eliminate that for senior citizens. One of the issues, I think, is if it is means tested. I would respectfully suggest that it is means tested because, frankly, if a senior citizen is using that type of electricity, 99% of it would be electric heat. If it is means tested, I think if they were in a situation that they could afford to buy a less expensive type of heating system they would certainly do that. I would ask that you would defeat the Ought Not to Pass report and support Committee Amendment "A" (H-175). Thank you.

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

Senator **PERRY:** Thank you, Madame President, ladies and gentlemen of the Senate. Another bill to shrink the sales tax base. Can't think of a more worthy cause, but we talk constantly about the need to expand it and vote constantly to shrink the sales tax base. If indeed this was a bill that was workable, I think we should take it up in the larger scope of comprehensive tax reform, stand alone, \$2 million a year. I don't believe it will be funded in the budget and it will drag out the process. I think we should dispense with it right here today. Thank you.

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

Senator **PLOWMAN**: Thank you, Madame President, men and women of the Senate. May I pose a question through the Chair?

**THE PRESIDENT**: The Senator may pose her question.

Senator **PLOWMAN**: Thank you, Madame President. Is my elderly aunt, who heats with fuel oil, paying sales tax on her fuel oil to stay warm?

**THE PRESIDENT**: The Senator from Penobscot, Senator Plowman poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Penobscot, Senator Perry.

Senator **PERRY**: Thank you, Madame President. Not at this time.

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

Senator **WOODCOCK**: Thank you, Madame President, ladies and gentlemen of the Senate. I rise today to oppose the pending motion of Ought Not to Pass. We have recently become the oldest state in the United States. It stands to reason that if that is the case, and I apologize for being an English teacher and not a math teacher, but it must mean we have more senior citizens than we used to have if we are the oldest state in the United States. Most of those senior citizens in my part of the state heat with electric heat because that was the form of heating that was very popular at the time that they purchased their house. I'm very sensitive to the good Senator from Penobscot, Senator Perry's discussion of the sales tax broadening and this being a reduction of that broadening. We appreciate that. As has always been the case in our society, exemptions come at an individual cost, an individual basis, and I feel very strongly that this particular group of citizens needs to have our attention paid to them. This is a case of collectively bringing them into the fold of not expanding the sales tax base. Today I'm presenting the argument to oppose this motion because I think this is a very needy group of citizens who deserve our support. Thank you, Madame President.

On motion by Senator **GAGNON** of Kennebec, **TABLED** until Later in Today's Session, pending the motion by Senator **PERRY** of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence. (Roll Call Ordered)

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**Divided Report**

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act To Require a Person Operating Farm Equipment on Public Roads To Be Adequately Trained"  
H.P. 194 L.D. 255

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

Signed:

Senators:  
DAMON of Hancock  
DIAMOND of Cumberland

SAVAGE of Knox

Representatives:

FISHER of Brewer  
PARADIS of Frenchville  
SAMPSON of Auburn  
HOGAN of Old Orchard Beach  
MAZUREK of Rockland  
McKENNEY of Cumberland  
COLLINS of Wells  
BROWNE of Vassalboro  
THOMAS of Ripley

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-165)**.

Signed:

Representative:  
MARLEY of Portland

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

Reports **READ**.

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

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**Senate**

**Ought to Pass As Amended**

Senator **NUTTING** for the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Amend Provisions of the Submerged Lands Laws"  
S.P. 183 L.D. 574

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-96)**.

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

**READ ONCE**.

Committee Amendment "A" (S-96) **READ** and **ADOPTED**.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY**.

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Senator **MITCHELL** for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, To Establish a Long-term Care Education Pilot Program for Registered Nurses  
S.P. 129 L.D. 405

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-100)**.

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

**READ ONCE**.

Committee Amendment "A" (S-100) **READ** and **ADOPTED**.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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Senator TURNER for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Amend the Charter of the Portland Public Library"

S.P. 187 L.D. 578

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-104)**.

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

**READ ONCE**.

Committee Amendment "A" (S-104) **READ** and **ADOPTED**.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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Senator BARTLETT for the Committee on **LABOR** on Bill "An Act To Conform Maine Employment Security Law with the Federal SUTA Dumping Prevention Act of 2004"

S.P. 335 L.D. 995

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-97)**.

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

**READ ONCE**.

Committee Amendment "A" (S-97) **READ** and **ADOPTED**.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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Senator PERRY for the Committee on **TAXATION** on Bill "An Act To Promote Energy Conservation and a Cleaner Environment"

S.P. 95 L.D. 275

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-101)**.

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

**READ ONCE**.

Committee Amendment "A" (S-101) **READ** and **ADOPTED**.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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**Divided Report**

The Majority of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Provide for Protected Reserve Funds

S.P. 282 L.D. 843

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

Signed:

Senators:

ROTUNDO of Androscoggin  
MARTIN of Aroostook

Representatives:

BRANNIGAN of Portland  
DUDLEY of Portland  
CRAVEN of Lewiston  
FISCHER of Presque Isle  
LERMAN of Augusta  
NUTTING of Oakland  
CURLEY of Scarborough

The Minority of the same Committee on the same subject reported that the same **Ought To Pass**.

Signed:

Senator:

NASS of York

Representatives:

MILLETT of Waterford  
BOWEN of Rockport

Reports **READ**.

Senator **ROTUNDO** of Androscoggin moved the Senate **ACCEPT** the Majority **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 Majority **OUGHT NOT TO PASS** Report.

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**Divided Report**

The Majority of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Provide Funds for the Preservation of Digital Records"

S.P. 360 L.D. 1043

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

Signed:

BLANCHARD of Old Town  
MUSE of Fryeburg  
SCHATZ of Blue Hill

Senators:

ROTUNDO of Androscoggin  
MARTIN of Aroostook  
NASS of York

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

Signed:

Representatives:

BRANNIGAN of Portland  
CRAVEN of Lewiston  
FISCHER of Presque Isle  
LERMAN of Augusta  
MILLS of Farmington  
MILLETT of Waterford  
BOWEN of Rockport

Representative:  
CROSTHWAITE of Ellsworth

Reports **READ**.

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

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

**READ ONCE**.

Signed:

Committee Amendment "A" (S-102) **READ** and **ADOPTED**.

Representatives:

NUTTING of Oakland  
CURLEY of Scarborough

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY**.

Reports **READ**.

**Divided Report**

On motion by Senator **ROTUNDO** of Androscoggin, the Majority **OUGHT TO PASS** Report **ACCEPTED**.

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act Regarding Constitutional Officers" S.P. 232 L.D. 695

**READ ONCE**.

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

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY**.

Signed:

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**Divided Report**

Senator:

ANDREWS of York

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Amend the Laws Governing the Community Preservation Advisory Committee" S.P. 184 L.D. 575

Representatives:

MUSE of Fryeburg  
SCHATZ of Blue Hill  
McFADDEN of Dennysville  
MOULTON of York  
BISHOP of Boothbay  
CROSTHWAITE of Ellsworth

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-102)**.

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

Signed:

Signed:

Senators:

SCHNEIDER of Penobscot  
ROTUNDO of Androscoggin  
ANDREWS of York

Senators:

SCHNEIDER of Penobscot  
ROTUNDO of Androscoggin

Representatives:

McFADDEN of Dennysville  
MOULTON of York  
HARLOW of Portland  
BISHOP of Boothbay  
SAMPSON of Auburn  
BARSTOW of Gorham

Representatives:

SAMPSON of Auburn  
HARLOW of Portland  
BARSTOW of Gorham  
BLANCHARD of Old Town

Reports **READ**.

Senator **SCHNEIDER** of Penobscot moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report.

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

Senator **DAVIS:** Thank you very much, Madame President. I rise in opposition to this motion and would urge my colleagues to vote it down so we can move on to the majority report. As you all know, I spent my life in law enforcement, or at least some of my life, not all of it. As such, I operated in a manner in which a gentleman taught me many years ago. He said, 'You be fair, you be firm, and you be impartial.' I did that the best I could. I believe very strongly that the Attorney General of the State of Maine and Secretary of State, be they Republican or Democrat and one day you will wake up and it will go to the other side, should not be using their titles in such a manner as I've seen being used in the last few elections. This last fall, in our local newspaper and in newspapers all across the state, there were letters of endorsement for candidates signed with the title of Attorney General underneath it. If you are a little guy who cuts wood for a living or some little person and the Attorney General of the State of Maine is going against you, that is very intimidating. This is a constitutional office. These titles should not be used in this manner, regardless of the party involved. The same goes for the Secretary of State. He is in charge of the very elections that you are participating in. These people should not be using these titles in this manner. This is a reform that I believe is needed desperately. They do it because people ask them to do it and they feel the pressure because they have to run for election. We would do a favor for them if we removed the opportunity for them to do it. I think it's inappropriate. I would ask that you vote down this motion.

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **SCHNEIDER:** Thank you, Madame President. I, too, believe in fairness. I also believe in transparency. I think this is an issue of transparency. Personally, when I see some advertisement or I see some notification, I want to know who the people are and I'd like to know their titles. I think it's a difference of opinion. I think that there has been some reference to law enforcement officers when, in the past, asking for donations and so on, they were not identifying themselves and feeling that the pressure that law enforcement is asking for donations is quite a different thing from when it comes to advertising a political event of some kind and not having a title on it. As my good colleague from Piscataquis, Senator Davis, pointed out, it's not a situation of one party over the other because we all know that parties change constantly and this is how it's been, it never changes. I don't think that this is a perspective of Republican versus Democrat, Independent, or Green. This is just a matter of transparency and being able to say what position you hold in your current employment. I, personally, would like to know who those people

are, regardless of what party they are in. Thank you, Madame President.

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

Senator **PLOWMAN:** Thank you, Madame President, men and women of the Senate. I see this as a fairness issue too. Not everybody has a title after their name. Is their opinion any less great than the person who does have a title after their name? Titles are power. There's no two ways to describe a title. People vie for titles; Partner, Assistant Vice President, President, Managing Partner. Titles connote power, which is why judges may not write those letters and sign them 'Honorable', which is why the U.S. Attorney may not. It's not unheard of to say that you may not use your position of power, which is denoted by your title, in order to influence. It is a huge influence. It cannot be any more so than to have the Constitutional Officers of the State of Maine using their titles. They have other titles; State employee, father of four, citizen of Windham. There are all kinds of titles that any of these citizens, voters, and people offering their opinions may use that does not connote power over someone else. This bill says you may not abuse your power. I urge you to take away the intimidation factor that comes with a title. Some people may not even find it intimidating. I don't because I've been here, but there are 1.2 million people that do not understand this process but they do understand titles. You need to think for a minute the way they do. Please reject this and move on to where citizens compete with citizens on an equal footing. Thank you.

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

Senator **DAVIS:** Thank you, Madame President. Just very briefly. The good Senator from Penobscot, Senator Schneider, alluded to intimidation that was used in the collection of money. I remember that very well. I was a State Trooper at the time. It was back in the middle 1970's and early 1980's when this was going on. They were calling trucking companies and telling them to donate and if they didn't their tractors may not be driving very long and that type of thing. It was intimidation. Governor Brennan, very wisely, put a stop to it. He absolutely did. There were a number of people that were on the road that were upset terribly over this practice that was going on. I was one of them. I applauded him for it. Intimidation that is being dealt out here is very little different from what was happening back then. You may not be asking for money, but you are putting the Attorney General's name or you are coming home from campaigning and push the button on your answering machine and it says that this is the Secretary of State telling you to vote for so and so. I believe that is inappropriate. We should stop it. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator Sullivan.

Senator **SULLIVAN:** Thank you, Madame President. May I pose a question?

**THE PRESIDENT:** The Senator may pose her question.

Senator **SULLIVAN**: Would this affect just Maine people? I know during the last election cycle I received a call from one of our federal Senators and that title was used. Can we control that through this because that, indeed, appears to be the same thing? I'm not sure if it is.

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

Senator **DAVIS**: Thank you, Madame President. I believe the office that the good Senator referred to is a political position. The bill says, 'Prohibits Constitutional Officers from using their titles or allowing their titles to be used for political purposes not necessary for the administration of their offices.' Thank you.

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

Senator **BARTLETT**: Thank you, Madame President. Just as U.S. Senators and U.S. Congressmen are political offices so are the Constitutional Offices under the State of Maine. We elect our Attorney General. We elect our Secretary of State. They come through this body. We all have an opportunity, as officials with R's and D's next to our names, to vote for them. It is representative democracy. We're electing these folks. It is absolutely no different than any other elected official putting their title on letterhead.

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

Senator **WESTON**: Thank you, Madame President, men and women of the Senate. I must respond because I think there is a difference. Our U.S. Congressmen do not have prosecutorial privilege over citizens in Maine. They also do not have the power of the Secretary of State's Office to do a myriad of things. There is a difference between that kind of political office and the Secretary of State and the Attorney General, who are Constitutional Officers. I think there is a big difference and that is the difference that is being addressed here. Thank you.

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

Senator **BRENNAN**: Thank you, Madame President, men and women of the Senate. Every session there are a handful of bills that are presented to solve a problem that doesn't exist. This bill falls into that category. I've run at least seven different elections over the last decade. Not once has a person in my district come to me and said that they feel intimidated because the Attorney General put his or her name on a fundraiser. I've never had one voter in my district, Democrat, Republican, Independent, or in my case, Green Party, come forward and say that they feel intimidated because the Secretary of State put their name on a fundraiser. This is a classic example of a bill that is in search of a problem. I urge you to vote for the pending motion.

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

Senator **MARTIN**: Thank you, Madame President and members of the Senate. Since I'm the only one here who served when the minority was the majority party and the Attorney General, Secretary of State and other officers were Republicans, I want to point out that the former Attorney General sent a letter to my district. It didn't change any votes. It was signed James S. Erwin, Attorney General. People know the difference. Frankly, it has no impact beyond the fact that someone made the call. I can assure you that it had no impact 25 years ago. I'm sure the Republicans hope that it will turn around and they would then be the majority and they can choose to elect those officials. This is not the way to solve the problem. If, in fact, there is evidence that you have a Constitutional Officer that violates the law and does what the State Troopers were doing 20 years ago, then that is something that we need to deal with. If someone says that they have been intimidated, there is a process now that exists to go after the Attorney General or anyone else that does that. I don't believe that we are going after this in the right way. If there is a problem with someone, and someone comes forward and makes that accusation, then that should be dealt with. It should be the same way with legislators. I think I have to agree with the good Senator from Cumberland, Senator Brennan, that we are looking for a problem here that doesn't exist.

**THE PRESIDENT**: The Chair recognizes the Senator from York, Senator Nass.

Senator **NASS**: Thank you, Madame President, men and women of the Senate. Can I pose a question through the Chair to the good Senator from Aroostook, Senator Martin?

**THE PRESIDENT**: The Senator may pose his question.

Senator **NASS**: If these incidents that have happened in recent years have, in fact, had no impact, then why did they do it? Thank you.

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

Senator **MARTIN**: Thank you, Madame President. I'd be more than happy to respond to the question. Very often it's done by the candidate, themselves, who likes to have names. I can assure you that endorsements don't work very well. Just look around at how many candidates on our side that had endorsements from Senator Muskie and others. It didn't change who got elected in a particular district or not. How many times did we use members that were Democratic to try to influence? It looks good on a brochure, but it has no impact.

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

Senator **WESTON**: Thank you, Madame President, men and women of the Senate. I'm sure that this example is not going to be an identical one, but I can't help but think of our probate judges, who are elected by the citizens. They have very strict rules, even about functions they can attend. In fact, we make it difficult for them to even run for office because of the rules. I see a great similarity between that controlling of their office as a



probate judge and the offices of Attorney General and Secretary of State. I think that is what this bill is getting at. I think the comment made earlier that it relieves of the problem as well is a big motivation to support this. Thank you.

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

Senator **MARTIN:** Thank you, Madame President. I'm pleased that the good Senator brought that issue up because I believe that is a function that should be eliminated. The position should be terminated and that job turned over to the District Court judges. We could save the State of Maine some money.

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

Senator **WOODCOCK:** Thank you, Madame President, ladies and gentlemen of the Senate. I rise also to oppose the motion before us. I might suggest, in the spirit of the good Senator from Aroostook, Senator Martin, that I would also say that I feel very strongly that these positions should not be elected by the legislature. They should be elected by the people. Thank you, Madame President.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Penobscot, Senator Schneider to Accept the Minority Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#79)

YEAS: Senators: BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **SCHNEIDER** of Penobscot to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

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#### Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Require a Surcharge on Probate Documents"

S.P. 472 L.D. 1374

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-103)**.

Signed:

Senators:

SCHNEIDER of Penobscot  
ANDREWS of York

Representatives:

McFADDEN of Dennysville  
HARLOW of Portland  
MOULTON of York  
BISHOP of Boothbay  
CROSTHWAITE of Ellsworth  
SAMPSON of Auburn  
BARSTOW of Gorham  
BLANCHARD of Old Town  
MUSE of Fryeburg  
SCHATZ of Blue Hill

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

Signed:

Senator:

ROTUNDO of Androscoggin

Reports **READ**.

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

**READ ONCE**.

Committee Amendment "A" (S-103) **READ** and **ADOPTED**.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY**.

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#### SECOND READERS

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

#### House

Resolve, To Rename Chick Road in Lebanon and Sanford after the Late State Representative Howard Chick

H.P. 41 L.D. 45

**READ A SECOND TIME** and **PASSED TO BE ENGROSSED**, in concurrence.

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**Senate**

Bill "An Act To Provide Funding for the Downeast Institute for Applied Marine Research and Education"  
S.P. 81 L.D. 228

Bill "An Act To Establish and Implement the Maine STEP-UP Program"  
S.P. 374 L.D. 1057

**READ A SECOND TIME and PASSED TO BE ENGROSSED.**

Sent down for concurrence.

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**Senate As Amended**

Bill "An Act To Establish Moxie as Maine's Official Beverage"  
S.P. 27 L.D. 85  
(C "A" S-89)

Bill "An Act To Allow Counties To Recover the Cost of Cleaning Up Hazardous Spills"  
S.P. 91 L.D. 271  
(C "A" S-87)

Bill "An Act To Amend Group Insurance Funding Requirements"  
S.P. 108 L.D. 346  
(C "A" S-83)

Bill "An Act To Amend the Laws Regarding Submission of Health Insurance Claims"  
S.P. 140 L.D. 416  
(C "A" S-85)

Bill "An Act To Exempt Insurers of Commercial Vehicle Fleets from the Requirement of Notification to the Secretary of State When Insurance Is Cancelled"  
S.P. 154 L.D. 528  
(C "A" S-95)

Bill "An Act To Reauthorize Funding for the Lobster Promotion Council"  
S.P. 260 L.D. 793  
(C "A" S-86)

Bill "An Act To Require That Municipal and County Spending Be Tracked and Analyzed by the State Planning Office"  
S.P. 308 L.D. 900  
(C "A" S-91)

Bill "An Act To Prohibit Shooting Wild Turkey Decoys"  
S.P. 317 L.D. 942  
(C "A" S-93)

**READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED.**

Sent down for concurrence.

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Bill "An Act To Clarify for Tax Purposes That Manure Removal and Storage Are Operations Directly Involved in the Raising and Care of Livestock"  
S.P. 161 L.D. 535  
(C "A" S-88)

**READ A SECOND TIME.**

On motion by Senator **GAGNON** of Kennebec, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED.**

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Off Record Remarks

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

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**ENACTORS**

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

**Emergency Resolve**

Resolve, Regarding Legislative Review of Chapter 40: Medication Administration in Maine Schools, a Major Substantive Rule of the Department of Education  
H.P. 16 L.D. 11

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

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**Acts**

An Act To Ban Remote-control Hunting  
H.P. 46 L.D. 50  
(C "A" H-110)

An Act To Align Maine Special Education Complaint Management Provisions with the Federal Individuals with Disabilities Education Act  
S.P. 124 L.D. 400

An Act To Strengthen Tenants' Rights When There Is a Failure To Correct a Dangerous Condition  
H.P. 444 L.D. 611

An Act To Authorize the Exchange of a Designated Hunting Season for Another Hunting Season for the Same Game Species  
H.P. 445 L.D. 612  
(C "A" H-112)

An Act To Provide Free Antlerless Deer Permits to Persons 100 Years of Age or Older  
S.P. 207 L.D. 652  
(C "A" S-70)

An Act To Create a Civil Violation for Operating a Snowmobile Left of Center  
H.P. 687 L.D. 977  
(C "A" H-111)

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

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**HELD MATTER**

Bill "An Act To Amend the Maine Workers' Compensation Act of 1992 To Facilitate Timely Independent Medical Examinations and Benefit Payments"  
S.P. 289 L.D. 881

(In Senate, April 26, 2005, on motion by Senator Strimling of Cumberland, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

On motion by Senator **PLOWMAN** of Penobscot, the Senate **SUSPENDED THE RULES** for the purpose of **RECONSIDERATION**.

Same Senator moved the Senate **RECONSIDER** whereby the Majority **OUGHT NOT TO PASS** Report was **ACCEPTED**.

On motion by Senator **GAGNON** of Kennebec, **TABLED** until Later in Today's Session, pending the motion by Senator **PLOWMAN** of Penobscot to **RECONSIDER** whereby the Majority **OUGHT NOT TO PASS** Report was **ACCEPTED**.

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**ORDERS OF THE DAY**

**Unfinished Business**

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

The Chair laid before the Senate the following Tabled and Later (4/26/05) Assigned matter:

HOUSE REPORTS - from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Amend the Maine Juvenile Code"

H.P. 181 L.D. 242

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-114)** (9 members)

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

Tabled - April 26, 2005, by Senator **DIAMOND** of Cumberland

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

(In House, April 14, 2005, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-114) AS AMENDED BY HOUSE AMENDMENT "A" (H-125)** thereto.)

(In Senate, April 26, 2005, Reports **READ**.)

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

**READ ONCE**.

Committee Amendment "A" (H-114) **READ**.

House Amendment "A" (H-125) to Committee Amendment "A" (H-114) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-114) as Amended by House Amendment "A" (H-125) thereto, **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY**.

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The Chair laid before the Senate the following Tabled and Later (4/26/05) Assigned matter:

Bill "An Act To Improve Child Support Services"  
H.P. 1125 L.D. 1589

Tabled - April 26, 2005, by Senator **MAYO** of Sagadahoc

Pending - **REFERENCE**

(Committee on **HEALTH AND HUMAN SERVICES** suggested and ordered printed.)

(In House, April 26, 2005, **REFERRED** to the Committee on **JUDICIARY**.)

On motion by Senator **HOBBS** of York, **REFERRED** to the Committee on **JUDICIARY** and ordered printed, in concurrence.

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

**REPORTS OF COMMITTEES**

**Senate**

**Ought to Pass**

Senator SULLIVAN for the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Amend the Laws Related to Health Insurance and Confidentiality of Property and Casualty Filings"

S.P. 517 L.D. 1499

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

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

**READ ONCE**.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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**Ought to Pass As Amended**

Senator SULLIVAN for the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Amend the Laws Related to Cancellation and Nonrenewal of Insurance"

S.P. 167 L.D. 541

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-105)**.

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

**READ ONCE**.

Committee Amendment "A" (S-105) **READ** and **ADOPTED**.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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

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

**ENACTORS**

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

**Emergency Measure**

An Act To Exempt Certain Tires from the Speed Rating Requirements

H.P. 303 L.D. 418  
(C "A" H-117)

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

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Senator **WOODCOCK** of Franklin was granted unanimous consent to address the Senate off the Record.

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

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Senator **ROTUNDO** of Androscoggin was granted unanimous consent to address the Senate off the Record.

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Senator **SCHNEIDER** of Penobscot was granted unanimous consent to address the Senate off the Record.

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Off Record Remarks

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

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On motion by Senator **BRENNAN** of Cumberland, **ADJOURNED**, pursuant to the Joint Order, to Tuesday, May 3, 2005, at 10:00 in the morning.