

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
Tuesday
May 17, 2005

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

Prayer by Pastor Bruce P. Burnham of the Alfred Parish Church, Congregational, UCC and the North Saco Congregational Christian Church, UCC of Saco.

PASTOR BURNHAM: Thank you. Good morning. May we be in the attitude of prayer.

Loving Creator of all that I can see and far beyond what mind can imagine, these few gathered here have been elected to work out the aspirations, hopes, and dreams of the many in the State of Maine. For their willingness to serve in this creative capacity, I thank You. My prayer for all who are called to serve is that each might have eyes opening to the way You see our world, ears hearing with clarity and compassion the words of constituents and colleagues, mouths speaking words of wisdom and truth, hands reaching out to offer help and hope, and hearts serving as a conduit for all the goodness and wellbeing that comes from having Your divine vision of how wonderful this world can be at the very center of all that is to be done. May it be that, when this day draws to a close, everyone that serves in this chamber, be they Senator or staff member and indeed all who serve this beautiful state which You offer for our living and fulfillment, might hear the words, 'Well done, good and faithful servant.' All this is offered to the glory of Your name, oh God. Amen.

Doctor of the day, Dr. Stephen Sears of Farmingdale.

Reading of the Journal of Monday, May 16, 2005.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.C. 306

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

May 12, 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 Judiciary has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 830 An Act To Reduce the Duration of Nonpayment of Child Support That Triggers License Suspension
- L.D. 955 An Act To Prevent the Financial Exploitation of Vulnerable Citizens

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

Sincerely,

S/Sen. Barry J. Hobbins
Senate Chair

S/Rep. Deborah Pelletier-Simpson
House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: S.C. 307

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

May 12, 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 Judiciary has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 220 An Act To Support the Disclosure of Information to Relatives Who Are Likely To Provide Care to Children
- L.D. 674 An Act To Remove the Jurisdiction of Probate Court in Child Protection Petitions

- L.D. 853 An Act To Limit MaineCare Benefits for Individuals Seriously in Arrears on Child Support Payments
- L.D. 1073 Resolve, Directing the Family Law Advisory Commission To Study the Child Protection Process
- L.D. 1394 An Act To Require That Judicial Hearings Be Conducted in Hospitals Providing Involuntary Inpatient Psychiatric Services

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

Sincerely,

S/Sen. Barry J. Hobbins
Senate Chair

S/Rep. Deborah Pelletier-Simpson
House Chair

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

SENATE PAPERS

Bill "An Act To Make a Standard Alternative Form of Regulation Available to Rural Telephone Companies"
S.P. 622 L.D. 1675

Sponsored by Senator **HOBBINS** of York.

On motion by Senator **BARTLETT** of Cumberland, **REFERRED** to the Committee on **UTILITIES AND ENERGY** and ordered printed.

Sent down for concurrence.

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

ORDERS

Joint Orders

Expressions of Legislative Sentiment recognizing:

National Police Memorial Week during the week of May 16, 2005, in honor of those law enforcement officers in the nation who lost their lives in the line of duty, and that Thursday May 19, 2005 is the 14th Annual Maine Law Enforcement Officers Memorial Service. We urge all citizens to pause and remember the men and women in our law enforcement agencies who gave their life to protect the people of the State of Maine;
SLS 350

Sponsored by Senator **ANDREWS** of York.
Cosponsored by Representative: **CARR** of Lincoln.

READ.

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

Senator **ANDREWS:** Thank you, Madame President, men and women of the Senate. I would ask all of you at some time this week to pause and remember all the men and women of the State of Maine and the nation who have made the supreme sacrifice. Just like the men and women who gave their life on September 11th, these are ordinary men and women who serve you and the people of Maine. They go to work like you and I every day but they don't come home, like my husband, Trooper Charles Black, who was not even on duty the day he gave his life but was going to court. Please join others on Thursday, May 19th, at the Maine Law Enforcement Memorial to recognize all these brave individuals in the State of Maine who gave their all. Thank you.

PASSED.

Sent down for concurrence.

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Amend the Law Regarding State Milk Payments"

H.P. 723 L.D. 1070

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

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, Regarding Legislative Review of Chapter 100: Enforcement Procedures, a Major Substantive Rule of the Maine Health Data Organization (EMERGENCY)

H.P. 966 L.D. 1389

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

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Require That Licensed Pastoral Counselors Be Recognized as Licensed Professionals for Purposes of Insurance Reimbursement"

H.P. 30 L.D. 27

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

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Require That Mental Health Workers with Family Therapist Licenses Be Recognized as Licensed Professionals for Purposes of Insurance Reimbursement"

H.P. 31 L.D. 28

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

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **NATURAL RESOURCES** on Bill "An Act To Assist Municipal Implementation and Enforcement of Storm Water Management Programs"

H.P. 441 L.D. 608

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

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **TRANSPORTATION** on Resolve, Directing the Department of Transportation To Strengthen Guardrails on Old County Road in Rockland and Thomaston

H.P. 1119 L.D. 1583

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

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **UTILITIES AND ENERGY** on Resolve, Regarding Legislative Review of Portions of Chapter 306: Uniform Information Disclosure and Informational Filing Requirements, a Major Substantive Rule of the Public Utilities Commission (EMERGENCY)

H.P. 1137 L.D. 1610

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

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Ought to Pass As Amended

The Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Update the Membership of Certain Professional Licensing Boards"

H.P. 1034 L.D. 1471

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-356)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-356)**.

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

READ ONCE.

Committee Amendment "A" (H-356) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Amend the Certificate of Need Process"

H.P. 19 L.D. 16

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-344)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-344)**.

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

READ ONCE.

Committee Amendment "A" (H-344) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, To Require the Department of Health and Human Services To Adopt Rules Regarding Accrual of Cost Savings (EMERGENCY)

H.P. 56 L.D. 60

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-357)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-357)**.

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

READ ONCE.

Committee Amendment "A" (H-357) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Establish the Unused Prescription Drug Program"

H.P. 105 L.D. 129

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-347)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-347)**.

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

READ ONCE.

Committee Amendment "A" (H-347) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Change the Child Care Facility Licensing Laws"

H.P. 272 L.D. 359

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-346)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-346)**.

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

READ ONCE.

Committee Amendment "A" (H-346) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, To Require the Department of Health and Human Services To Amend Rules Regarding Licensing of Intermediate Care Facilities for Mental Retardation Nursing (EMERGENCY)

H.P. 284 L.D. 382

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-342).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-342).**

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

READ ONCE.

Committee Amendment "A" (H-342) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Reduce Costs Caused by New Procedure Changes for Health Care Providers"

H.P. 355 L.D. 480

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-341).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-341).**

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

READ ONCE.

Committee Amendment "A" (H-341) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Regulate the Display of Tobacco Products"

H.P. 408 L.D. 553

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-343).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-343).**

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

READ ONCE.

Committee Amendment "A" (H-343) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act Regarding Possession of Prescription Drugs"

H.P. 463 L.D. 630

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-358).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-358).**

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

READ ONCE.

Committee Amendment "A" (H-358) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Require the Disclosure of Certain Financial Information from Hospitals and Their Affiliates"

H.P. 520 L.D. 725

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-339).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-339).**

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

READ ONCE.

Committee Amendment "A" (H-339) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, To Examine Smoking Prevention and Cessation Programs for Maine's Youth

H.P. 546 L.D. 769

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-345).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-345)**.

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

READ ONCE.

Committee Amendment "A" (H-345) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Amend Laws Pertaining to Commercial Fishing and Baitfish"

H.P. 518 L.D. 723

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-352)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-352)**.

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

READ ONCE.

Committee Amendment "A" (H-352) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **LABOR** on Bill "An Act To Conform the Remedies under the Maine Family Medical Leave Requirements with Those Available under Federal Law"

H.P. 977 L.D. 1413

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-348)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-348)**.

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

READ ONCE.

Committee Amendment "A" (H-348) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **LABOR** on Bill "An Act To Amend the Workers' Compensation Medical Fee Schedule To Include Hospital Charges"

H.P. 635 L.D. 916

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-338)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-338)**.

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

READ ONCE.

Committee Amendment "A" (H-338) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Amend the Laws Governing the Funding of State Special Elections"

H.P. 66 L.D. 70

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-354)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-354)**.

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

READ ONCE.

On motion by Senator **BRENNAN** of Cumberland, the Senate **RECONSIDERED** whereby it **ACCEPTED** the **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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

The Committee on **LEGAL AND VETERANS AFFAIRS** on Resolve, To Raise a Monument for Women Veterans of Maine

H.P. 588 L.D. 829

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-353)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-353)**.

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

READ ONCE.

Committee Amendment "A" (H-353) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **NATURAL RESOURCES** on Resolve, Regarding Nonnative Invasive Marine Species
H.P. 487 L.D. 667

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-360).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-360).**

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

READ ONCE.

Committee Amendment "A" (H-360) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **NATURAL RESOURCES** on Bill "An Act Regarding New Motor Vehicle Emission Standards Rulemaking"
H.P. 448 L.D. 615

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-337).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-337).**

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

READ ONCE.

Committee Amendment "A" (H-337) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **NATURAL RESOURCES** on Resolve, Regarding Legislative Review of Portions of Chapter 127: New Motor Vehicle Emission Standards, a Major Substantive Rule of the Bureau of Air Quality (EMERGENCY)
H.P. 1028 L.D. 1465

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-361).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-361).**

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

READ ONCE.

Committee Amendment "A" (H-361) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **STATE AND LOCAL GOVERNMENT** on Resolve, Promoting the Consumption of Maine Farm Products at the State House Complex
H.P. 1017 L.D. 1452

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-340).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-340).**

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

READ ONCE.

Committee Amendment "A" (H-340) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **TRANSPORTATION** on Bill "An Act Relating to the Northern New England Passenger Rail Authority"
H.P. 380 L.D. 505

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-362).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-362).**

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

READ ONCE.

Committee Amendment "A" (H-362) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senate
Ought to Pass As Amended

Senator BROMLEY for the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act Regarding Identity Theft Deterrence"
S.P. 190 L.D. 581

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-187).**

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

READ ONCE.

Committee Amendment "A" (S-187) **READ** and **ADOPTED.**

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senate
Ought to Pass As Amended

Senator COWGER for the Committee on **NATURAL RESOURCES** on Bill "An Act To Require That Hazardous Waste Be Removed from Junked Vehicles"
S.P. 229 L.D. 692

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-186).**

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

READ ONCE.

Committee Amendment "A" (S-186) **READ.**

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#128)

YEAS: Senators: ANDREWS, BARTLETT, BRENNAN, BROMLEY, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MITCHELL, NASS, RAYE, ROSEN, ROTUNDO,

SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: None

ABSENT: Senators: BRYANT, MILLS, NUTTING, PERRY, PLOWMAN

30 Senators having voted in the affirmative and no Senator having voted in the negative, with 5 Senators being absent, Committee Amendment "A" (S-186) **ADOPTED.**

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

SECOND READERS

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

Senate

Bill "An Act To Monitor and Maintain Maximum Levels of Assistance in the General Assistance Program"
S.P. 114 L.D. 367

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

Sent down for concurrence.

Senate As Amended

Bill "An Act To Designate the Department of Health and Human Services as the Official State Agency Responsible for Programs for Persons Affected by Brain Injury"
S.P. 239 L.D. 741
(C "A" S-171)

Bill "An Act To Postpone the Repeal Date on Nonhospital Expenditures in the Capital Investment Fund"
S.P. 240 L.D. 742
(C "A" S-179)

Bill "An Act To Reduce Hardships to Small Community Hospitals Resulting from the Hospital Tax" (EMERGENCY)
S.P. 278 L.D. 839
(C "A" S-180)

Bill "An Act To Discourage Further the Sale of Tobacco to Minors"
S.P. 293 L.D. 885
(C "A" S-172)

Bill "An Act To Amend the Laws Governing the Department of Labor's Construction Industry Wage and Hour Survey"
S.P. 318 L.D. 943
(C "A" S-177)

Bill "An Act To Restore Municipal Authority To Review Development Using Flexible Standards"

S.P. 331 L.D. 991
(C "A" S-174)

Bill "An Act To Authorize Exemptions for Certain Private Schools from Certain Requirements"

S.P. 354 L.D. 1037
(C "A" S-178)

Bill "An Act To Amend the Lobster Fishing Laws of Maine"

S.P. 526 L.D. 1510
(C "A" S-183)

Bill "An Act Concerning Storm Water Management"

S.P. 542 L.D. 1558
(C "A" S-184)

Bill "An Act To Amend the Motor Vehicle Laws Relating to the Assignment of Security Interests" (EMERGENCY)

S.P. 554 L.D. 1576
(C "A" S-185)

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

Sent down for concurrence.

Bill "An Act To Require Fair and Timely MaineCare Payments to Hospitals"

S.P. 214 L.D. 678
(C "A" S-181)

READ A SECOND TIME.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#129)

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

NAYS: Senators: None

ABSENT: Senators: BRYANT, MILLS, NUTTING, PERRY

31 Senators having voted in the affirmative and no Senator having voted in the negative, with 4 Senators being absent, was **PASSED TO BE ENGROSSED AS AMENDED.**

Sent down for concurrence.

Resolve, To Establish the Commission To Study the Licensing Conflicts between the Department of Agriculture, Food and Rural Resources and the Department of Health and Human Services

S.P. 442 L.D. 1262
(C "A" S-175)

READ A SECOND TIME.

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

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

ENACTORS

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

Emergency Measure

An Act To Authorize Certain Campers To Self-administer Emergency Medication

H.P. 48 L.D. 52
(C "A" H-237)

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.

Emergency Measure

An Act To Prohibit Firearms in a Courthouse

H.P. 117 L.D. 166
(C "A" H-217)

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with no Senators having voted in the negative, and 30 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Measure

An Act To Allow Certain Unregistered All-terrain Vehicles To Participate in Special Events in the State

H.P. 316 L.D. 431
(C "A" H-224)

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with no Senators having voted in the negative, and 30 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Measure

An Act To Reestablish the Ban on Dragging in the Taunton River Area

S.P. 185 L.D. 576
(S "A" S-109 to C "A" S-94)

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.

Emergency Measure

An Act To Amend the Charter of the Portland Public Library

S.P. 187 L.D. 578
(C "A" S-104)

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.

Emergency Measure

An Act To Streamline Sewer District Borrowing and Amend Laws Governing Water District Borrowing To Ensure Consistency

H.P. 615 L.D. 864
(C "A" H-184)

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with no Senators having voted in the negative, and 30 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Measure

An Act To Ensure Equity in Funding

H.P. 619 L.D. 868
(C "A" H-198)

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.

Emergency Measure

An Act To Revise the Charter of the Kennebunk Sewer District

H.P. 692 L.D. 982
(C "A" H-183)

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.

Emergency Resolve

Resolve, Regarding Legislative Review of Chapter 11: Registration, Collection and Dissemination of Prescription Data Relating to Schedule II, III and IV Drugs, a Major Substantive Rule of the Department of Health and Human Services, Office of Substance Abuse

H.P. 14 L.D. 9
(C "A" H-236)

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 **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, To Review Rules for Organ and Tissue Donation

H.P. 51 L.D. 55
(C "A" H-238)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 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.

Emergency Resolve

Resolve, To Establish the Study Commission Regarding Liveable Wages

H.P. 854 L.D. 1236
(C "A" H-232)

Comes From the House, **FAILED FINAL PASSAGE.**

On motion by Senator **GAGNON** of Kennebec, **TABLED** until Later in Today's Session, pending **FINAL PASSAGE**, in **NON-CONCURRENCE.**

Mandate

An Act To Reestablish the Penobscot County Budget Committee

H.P. 274 L.D. 361
(C "A" H-126;H "A" H-280)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 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.

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

Acts

An Act To Allow Emergency Responders To Equip Their Vehicles with 2 Emergency Flashing Lights

H.P. 182 L.D. 243
(C "A" H-220)

An Act To Assist Persons with Pulmonary Disabilities

H.P. 418 L.D. 563
(C "A" H-181)

An Act To Amend Provisions of the Submerged Lands Laws

S.P. 183 L.D. 574
(C "A" S-96)

An Act To Amend the Laws Governing the Community Preservation Advisory Committee

S.P. 184 L.D. 575
(C "A" S-102)

An Act To Make Insurance Coverage Available for Medically Necessary Breast Reduction and Symptomatic Varicose Vein Surgery

H.P. 429 L.D. 596
(C "A" H-212)

An Act To Clarify the Liquor Enforcement Laws

H.P. 453 L.D. 620
(C "A" H-179)

An Act To Amend the Procedure by Which Maine Education Assessment Scores Are Interpreted

H.P. 457 L.D. 624
(C "A" H-216)

An Act To Provide For Special Antlerless Deer Permits to Certain Disabled Hunters

H.P. 536 L.D. 759
(C "A" H-225)

An Act To Improve the Affordability of Health Insurance

H.P. 544 L.D. 767
(C "A" H-211)

An Act To Establish the Maximum Height of a Dam on Phillips Lake

S.P. 257 L.D. 790
(C "A" S-117)

An Act To Make Technical Changes in Laws Relating to Conservation

H.P. 578 L.D. 813
(C "A" H-200)

An Act Allowing School Unions To Improve Efficiency

H.P. 607 L.D. 856
(C "A" H-234)

An Act To Give 2 Moose Hunting Permits to Hunt of a Lifetime

H.P. 623 L.D. 873
(C "A" H-226)

An Act To Restructure the Board of Trustees of the Maine School of Science and Mathematics

H.P. 640 L.D. 921
(C "A" H-188)

An Act To Conform the Insurance Information and Privacy Protection Act to Federal Privacy Rules

H.P. 676 L.D. 966
(C "A" H-210)

An Act To Conform Maine Employment Security Law with the Federal SUTA Dumping Prevention Act of 2004

S.P. 335 L.D. 995
(C "A" S-97)

An Act To Prohibit Passing in Designated No-passing Zones
H.P. 735 L.D. 1082
(C "A" H-209)

An Act To Make Technical and Minor Changes in the Capitol
Planning Commission
H.P. 749 L.D. 1096
(C "A" H-219)

An Act To Designate Pay Phone Locations in the Public Interest
H.P. 754 L.D. 1101
(C "A" H-199)

An Act To Exempt Fire Departments from Biweekly Pay
Requirements for Volunteer Firefighters
S.P. 398 L.D. 1170
(C "A" S-113)

An Act Concerning Invasive Species and Water Quality
Standards
H.P. 901 L.D. 1304
(C "A" H-245)

An Act To Require a Surcharge on Probate Documents
S.P. 472 L.D. 1374
(C "A" S-103)

An Act To Amend the Laws Regarding Certain Employment-
related Matters
H.P. 983 L.D. 1419
(C "A" H-233)

An Act To Amend the Laws Governing the Rural Medical Access
Program
H.P. 1035 L.D. 1472

An Act To Amend the Laws Related to Health Insurance and
Confidentiality of Property and Casualty Filings
S.P. 517 L.D. 1499

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

An Act To Appropriate State Funds To Protect Potato Farmland in
Aroostook County from Blight and Other Diseases That Could
Occur with the 2004 Crop Unless Cull Potatoes Are Dumped
Properly

H.P. 131 L.D. 180
(C "A" H-206)

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

An Act To Enhance MaineCare Reimbursement Rates for
Ambulance Services
H.P. 147 L.D. 196
(C "A" H-239)

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

An Act To Promote Energy Conservation and a Cleaner
Environment
S.P. 95 L.D. 275
(C "A" S-101)

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

An Act To Distribute Revenue in the Law Enforcement Agency
Reimbursement Fund to Municipalities and Counties and To
Assist Law Enforcement Officers with Unmet Catastrophic
Medical Needs
S.P. 118 L.D. 371
(C "A" S-110)

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

An Act To Restore Support for HIV and AIDS Treatment and
Prevention
H.P. 421 L.D. 588

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

An Act To Support the New Century Community Program
H.P. 543 L.D. 766
(C "A" H-227)

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

An Act To Provide a Stable Source of Funding for the Safe
Drinking Water Revolving Loan Fund
H.P. 552 L.D. 775
(C "A" H-228)

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

An Act To Provide Funding for "Camp To Belong" To Reunite Siblings Separated by Foster Care

H.P. 573 L.D. 808
(C "A" H-229)

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

An Act To Provide Funds for the Preservation of Digital Records
S.P. 360 L.D. 1043

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

An Act To Reestablish the Maine Coast Environmental Trust Fund within the Department of Marine Resources

H.P. 852 L.D. 1234
(C "A" H-218)

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

An Act To Ensure Compliance with the Federal Americans with Disabilities Act for Court Facilities

H.P. 869 L.D. 1272
(C "A" H-195)

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

An Act To Assist Families and Children by Increasing Access to the Court System

H.P. 890 L.D. 1293
(C "A" H-196)

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

Resolves

Resolve, Directing the Department of Health and Human Services To Adopt Rules Regarding the Licensing of New Opioid Treatment Programs

H.P. 24 L.D. 21
(C "A" H-235)

Resolve, To Develop a Partnership To Prevent, Identify and Treat Eating Disorders

H.P. 178 L.D. 239
(C "A" H-240)

Resolve, Authorizing the Office of Consumer Credit Regulation To Study the Payday Advance Industry and Related Consumer Credit Lending Issues in Maine

H.P. 565 L.D. 788
(C "A" H-241)

Resolve, To Continue Efforts of the Department of Transportation To Balance Public Safety and Access to Land by Landowners

H.P. 580 L.D. 821

Resolve, To Name the New Augusta Bridge

H.P. 877 L.D. 1280

Resolve, To Improve the Response Time for State Employees Seeking Job Reclassifications

S.P. 458 L.D. 1331
(C "A" S-118)

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

Resolve, To Require the Department of Environmental Protection To Undertake Phosphorus Control in Toothaker Pond in Phillips

H.P. 603 L.D. 852
(C "A" H-192)

On motion by Senator **ROTUNDO** of Androscoggin, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**, in concurrence.

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

Senate at Ease.

Senate called to order by the President.

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

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

On motion by Senator **BRENNAN** of Cumberland,
RECESSED until 11:30 in the morning.

After Recess

Senate called to order by the President.

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator **STRIMLING** for the Committee on **LABOR** on Bill "An Act To Require the Workers' Compensation Board To Use the 5th Edition 'Guides to the Evaluation of Permanent Impairment' in Assessing Workers' Compensation Injuries Involving the Spinal Column"

S.P. 456 L.D. 1329

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-189)**.

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

READ ONCE.

Committee Amendment "A" (S-189) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

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

COMMUNICATIONS

The Following Communication: S.C. 308

**MAINE STATE LEGISLATURE
COMMITTEE ON INLAND FISHERIES AND WILDLIFE
AUGUSTA, MAINE 04333**

May 12, 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 Inland Fisheries and Wildlife has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 453 An Act To Assist the Mobility of the Disabled in Hunting and Outdoor Recreation BY REQUEST
- L.D. 917 An Act To Allow Hunting on Sunday for Resident Landowners
- L.D. 1531 An Act To End the Use of Wire Neck Snares

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

Sincerely,

S/Sen. Bruce Bryant
Senate Chair

S/Rep. Thomas R. Watson
House Chair

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

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act Requiring Release of Aggregate Information from the Department of Education To Measure the Effectiveness of the Law Requiring Fingerprinting and Background Checks of Educational Personnel"

H.P. 1103 L.D. 1565

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

Signed:

Senators:
MITCHELL of Kennebec
TURNER of Cumberland

Representatives:

NORTON of Bangor
EDGECOMB of Caribou
GOLDMAN of Cape Elizabeth
STEDMAN of Hartland
MAKAS of Lewiston
LANSLEY of Sabattus
CAIN of Orono
MERRILL of Appleton

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

Signed:

Senator:

SCHNEIDER of Penobscot

Representatives:

DAVIS of Falmouth
FINCH of Fairfield

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

Reports **READ**.

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

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Abolish the Maine Clean Election Act"

H.P. 381 L.D. 506

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

Signed:

Senators:

GAGNON of Kennebec
MITCHELL of Kennebec

Representatives:

FISHER of Brewer
OTT of York
VALENTINO of Saco
PATRICK of Rumford
TUTTLE of Sanford
MOORE of Standish
BLANCHETTE of Bangor

BROWN of South Berwick

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-355)**.

Signed:

Senator:

PLOWMAN of Penobscot

Representatives:

PINKHAM of Lexington Township
HOTHAM of Dixfield

(Representative MOORE of the Passamaquoddy Tribe - of the House - supports the Majority **Ought Not To Pass** Report.)

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

Reports **READ**.

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

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **MARINE RESOURCES** on Bill "An Act To Protect Fishing Families"

H.P. 790 L.D. 1147

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

Signed:

Senators:

DAMON of Hancock
SULLIVAN of York
ANDREWS of York

Representatives:

EMERY of Cutler
PERCY of Phippsburg
EDER of Portland
ADAMS of Portland
SEAVEY of Kennebunkport

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-275)**.

Signed:

Representatives:

FLETCHER of Winslow
KAELIN of Winterport
DUGAY of Cherryfield
CRESSEY of Cornish
ASH of Belfast

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.

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **NATURAL RESOURCES** on
Bill "An Act To Prevent Algae Blooms in Gulf Island Pond"
H.P. 1078 L.D. 1533

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

Signed:

Senators:

COWGER of Kennebec
SNOWE-MELLO of Androscoggin

Representatives:

KOFFMAN of Bar Harbor
JOY of Crystal
THOMPSON of China
ANNIS of Dover-Foxcroft
EBERLE of South Portland
DAIGLE of Arundel
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**.

Signed:

Representative:

SAVIELLO of Wilton

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.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Promote the Uniform Implementation of the Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas"
H.P. 139 L.D. 188

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-371)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-371)**.

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

READ ONCE.

Committee Amendment "A" (H-371) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **NATURAL RESOURCES** on Resolve, Directing the Air Toxics Advisory Committee To Review the Status of Toxic Emissions from Waste-to-energy Facilities in the State and Recommend Actions Aimed at Reducing and Monitoring These Emissions
H.P. 972 L.D. 1408

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-374)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-374)**.

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

READ ONCE.

Committee Amendment "A" (H-374) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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 (4/28/05) Assigned 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

Tabled - April 28, 2005, by Senator **GAGNON** of Kennebec

Pending - motion by Senator **PLOWMAN** of Penobscot to **RECONSIDER**

(In Senate, April 26, 2005, the Majority **OUGHT NOT TO PASS** Report **READ** and **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**.

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later (5/3/05) Assigned matter:

SENATE REPORTS - from the Committee on **LABOR** on Bill "An Act to Promote Responsible Contracting Practices on State Projects"

S.P. 172 L.D. 546

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-112)** (8 members)

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

Tabled - May 3, 2005, by Senator **STRIMLING** of Cumberland

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

(In Senate, May 3, 2005, Reports **READ**.)

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

Senator **SNOWE-MELLO:** Thank you, Madame President. I stand here today to ask you not to support the majority report on L.D. 546. Contractors in Maine are required to pay predetermined wages and benefits on state taxpayer financed construction projects. The Bureau of Labor Standards surveys contractors within a geographical area to come up with an average wage and benefit package by trade. That average becomes the prevailing wage construction workers are to be paid on state projects. L.D. 546 turns the concept of prevailing benefits on its ear. It amends the prevailing wage statute by selling an artificial floor for the value of prevailing health insurance benefits. Basically, it requires the assumption that all contractors provide Dirigo-like health insurance benefits. Current estimates placed that prevailing rate for health insurance at an additional \$2.45 per hour on average. Unfortunately, nothing in the amendment says that the additional \$2.45 per hour will be used to purchase health insurance, nor is it possible to determine how many of these workers, who don't get health insurance through their employers, have access to health insurance through a spouse or simply choose not to carry health insurance coverage. In their testimony in support of this amendment, the Bureau of General Services said that one solution was to increase the health insurance component of the benefit rate by creating a minimum rate that would allow workers to purchase health insurance. If the goal is to reduce the amount of working uninsured, as the bill's sponsors claim, this bill certainly does not do that. It merely inflates the hourly wage of employees working on taxpayer-financed projects with no requirement that the additional pay be used towards purchasing health insurance. This amendment increases the cost of state funded construction projects; meaning fewer roads, fewer bridges, and fewer schools for the taxpayer dollars. Maine simply cannot afford it. The sponsor's goal was to reduce the number of uninsured workers. If this amendment actually accomplished that I would be the first to support it. I hope you will join me in voting no on L.D. 546. Thank you very much.

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

Senator **BARTLETT:** Thank you, Madame President. I rise in support of this bill for a couple of reasons. To start off, I'd like to tell you exactly what this bill doesn't do. Originally this bill was designed to provide mandate Dirigo-style health insurance for anyone who does contracting with the State of Maine. It also required apprenticeship programs for anyone who is doing contracts with the State of Maine. We decided, in committee, that this was not workable. That mandate could end up being too heavy handed and may not, ultimately, lead to the goal we were trying to achieve, which is to expand access to health insurance. We decided to compromise with something to make sure that a company does not receive a competitive advantage by not providing health insurance. Right now many contractors provide excellent benefits, including health insurance equal to or exceeding what Dirigo provides. However, there are a few contractors who do not. They can undercut those who do provide health insurance because they don't have that additional expense. The purpose of this bill, as it stands, is very simple. It says, 'You will not receive a competitive advantage by avoiding the obligation of providing health insurance to your employees.' We think that is a good use of state dollars. It's simpler than

saying we won't contract with anybody who doesn't provide health insurance. We understand there are a lot of contractors who have only one or two contracts with the State of Maine, and not seeking to over reach in what we were trying to accomplish, we thought this was a way just to make sure we eliminate the competitive edge. That's what this bill is about and I urge you to support it.

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

Senator **STRIMLING:** Thank you, Madame President. I would just reiterate what the Senator from Cumberland, Senator Bartlett, just said. This bill is only about leveling the playing field for businesses because currently one business can compete, and because they don't pay for health care, they get a better advantage when they are competing for the state jobs. What we are trying to do is level the playing field. This is a pro-business bill in trying to deal with the competitive nature out there. Thank you.

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

Senator **SNOWE-MELLO:** Thank you, Madame President and ladies and gentlemen of the Senate. I need to remind you of what the cost would be to the Department of Transportation, which estimates the range of \$13 million to \$26 million additional annual highway fund costs. Let me reiterate. Maine cannot afford this. This is not a business bill. Thank you.

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

Senator **WOODCOCK:** Thank you, Madame President, ladies and gentlemen of the Senate. I applaud the notion of the good Senator from Cumberland, Senator Strimling, of what is pro-business and what is not pro-business. Once again, we may have to disagree on that definition. Thank you.

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Strimling to Accept the Majority Ought to Pass as Amended Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#130)

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

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

14 Senators having voted in the affirmative and 21 Senators having voted in the negative, the motion by Senator **STRIMLING** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **FAILED**.

The Minority **OUGHT NOT TO PASS** Report **ACCEPTED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/5/05) Assigned matter:

Bill "An Act To Authorize the Public Advocate To Represent Consumers in Federal Regulation of Railroads"
H.P. 169 L.D. 230

Tabled - May 5, 2005, by Senator **BARTLETT** of Cumberland

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-182)**, in concurrence

(In House, May 3, 2005, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-182).**)

(In Senate, May 5, 2005, Report **READ** and **ACCEPTED**, in concurrence. **READ ONCE**. Committee Amendment "A" (H-182) **READ**.)

On motion by Senator **DAMON** of Hancock, Senate Amendment "A" (S-188) to Committee Amendment "A" (H-182) **READ**.

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

Senator **DAMON:** Thank you, Madame President, men and women of the Senate. This is simply a technical change to this particular bill in that it will allow both the Transportation Committee and the Utilities and Energy Committee to have input and jurisdiction over pending legislation to come before this body. It is being funded, in part, by the Transportation budget and it's only fair and appropriate that the Transportation Committee be a part of that effort as well. Thank you.

On motion by Senator **DAMON** of Hancock, Senate Amendment "A" (S-188) to Committee Amendment "A" (H-182) **READ** and **ADOPTED**.

Committee Amendment "A" (H-182) as Amended by Senate Amendment "A" (S-188) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (5/10/05) Assigned matter:

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Provide an Exemption from Discrimination Laws to Fitness Centers"

S.P. 92 L.D. 272

Majority - **Ought Not to Pass** (10 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-137)** (3 members)

Tabled - May 10, 2005, by Senator **GAGNON** of Kennebec

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, May 10, 2005, Reports **READ**.)

Senator **HOBBS** of York moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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

Senator **SNOWE-MELLO:** Thank you, Madame President and ladies and gentlemen of the Senate. I ask you to vote against the motion that is pending on the floor and support the minority report on L.D. 272. The day has arrived when you all can rest easy, but you have to admit that fitness centers that encourage people really believe in this. I hope that you will be able to support this bill.

I know that we have come a long way towards eliminating sex discrimination in our state. That is a good thing. I urge you not to view the desire of some women to exercise in a safe and comfortable environment, out of the gaze of the opposite sex, as a form of discrimination. Earlier this session we heard compelling testimony from many women who simply would not join a health or fitness facility if men were going to be present at that facility. Some of these women join a fitness center at the advice of their physicians. Others simply do it out of an interest to get in shape. Some women, I would hope, might even be motivated by our own Governor's recent proclamation of Maine Public Health Week with the theme of empowering Maine's people to live stronger and longer. Taking away the only safe and comfortable environment for exercise many of these women have ever known would not exactly be empowering them to live stronger and longer would it?

In Wisconsin legal action was forced by a single individual who filed lawsuits against 173 Curves for Women facilities in that state. The man filing the lawsuit claimed the presence of women only fitness centers violated Wisconsin's anti-discrimination laws. With merely 100 Curves for Women in Maine, and more sprouting up, Maine is fertile ground for frivolous lawsuits such as Wisconsin has dealt with.

I recognize that Wisconsin's anti-discrimination laws are different from Maine's and L.D. 272 is written to specifically address Maine's anti-discrimination law. The Wisconsin Senate did not have a problem excluding from their anti-discrimination laws businesses that provide services or facilities designed to assist patrons in physical exercise, in weight control, or in figure

development. The Governor in that state, Governor Doyle, a Democrat, when signing Wisconsin's bill into law said that he believes governments should do everything they can to encourage physical fitness. He went on to say, 'This bill will encourage women to lead healthy lives and to exercise by offering a supportive environment.' Alaska, Colorado, Hawaii, Illinois, New Jersey, Tennessee, and Massachusetts all joined Wisconsin in allowing fitness centers to be single sex. Each of these states protected the single sex fitness clubs without limiting the choice of their citizens.

There will continue to be fitness clubs that have both male and female members for those who prefer to exercise in the company of the opposite sex. For those who would not exercise except in the privacy provided by single sex clubs, like Curves, we need to protect their rights to exercise in privacy. The Maine legislature's always stressed how important fitness and health is for people in Maine. Remember, these ladies attend a fitness center because they are striving for good health and a fit body. Ladies and gentlemen, I believe that this bill goes a long way endorsing that all of Maine's citizens get on the road to good health and strong bodies. Thank you.

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 York, Senator Hobbins.

Senator **HOBBS:** Thank you, Madame President and members of the Senate. When I decided to run for the Maine Legislature for the third time last February and mid-March, I never thought that I would debating a bill called 'Curves' on my 54th birthday. I never thought I would be because, for one thing, when you're getting up in age and you're just re-subscribed after a three-year membership to AARP, the idea of fitness begins to come into play. This bill is more about whether or not the good Senator from Piscataquis, Senator Davis, or myself could go down to the local Curves and work out like we probably should.

This bill brings me back to the fact that back in the 1970's, when I served in the other body, discrimination laws in Maine were enacted and sex discrimination was prohibited with the enactment of the Maine Human Rights Act. The reason it was enacted was to ensure that women were not excluded, ironically, from fitness centers, from gyms, from sports teams, from golf clubs, and other facilities for no reason other than their sex. I remember when I was asked in 1977 whether I wanted to become a member of the Elks. Of course, having a little political ambition and being a conscience of doing the right thing, the P.C. thing, I respectfully declined because they only accepted men and no women. That's not the case any more. The club is now very actively involved with women members. Arguments abounded about this back then, in the 1970's, and they are similar today in that the arguments were that some places should just be for men. I'm going back and using the arguments they used against the women in those days. They said that it would be more comfortable not to have women around. Without women, men didn't have to have to watch what they said or what they did and how they said it. That's the problem with this bill. It's not about just exercising, because quite frankly what the franchises of Curves do in their mission is a good mission and there hasn't been any issues with men trying to get into their clubs and joining.

The Maine Human Rights Commission had not received one complaint from men or women regarding participation and membership in fitness centers, not just this issue, but fitness centers. This bill goes beyond whether or not the good Senator from Piscataquis, Senator Davis, and myself should go to a health club. If this bill passes, we'll be going to an all men's club, probably called Buffs. It goes beyond that. This bill goes to heart of discrimination that went back to what was known under the old days in this country as separate but equal. I don't think we need to go back to the Plessy versus Ferguson days.

I respect anyone who votes the other way in bill because there are privacy issues involved. There are women's colleges that are successful in keeping the sanctity of their history and tradition, which I respect. There are cases galore. You would not be considered to be anti-sexual, racial, or whatever you want to call it, discriminating, or be criticized if you vote with the good Senator from Androscoggin, Senator Snowe-Mello, but I want you to just think about all those battles that were fought in the 1970's to allow women into all these clubs and now, with one bill, we revert back to the 1970's. 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. This is not an issue about exercise, but it is an issue about privacy and vulnerability. We do have clubs where men and women are now allowed but we have separate shower rooms, we have separate steam rooms, and we have all kinds of separate facilities so that people who are vulnerable and want privacy can access that. We have men and women restrooms here. There are times when I'd like to use the men's room because there are so many women in line, but I wouldn't want to come in and make you feel vulnerable. Women that join Curves join because there is a curtain across the windows and that men are not allowed. When they sit in these incredibly designed machines that are supposed to work with different parts of your body, they are physically vulnerable. Imagine yourselves in the equivalent of the OBGYN chair, with your feet up in stirrups. Do you want the man across the room from you watching you work out your inner and outer thigh? Am I getting graphic enough? Imagine that you weigh 250 or 300 pounds and you have found the only outfit that is big enough to cover you and keep you comfortable while you're trying to get your heart rate into the right range, lose some weight, not come down with diabetes, and you want to go somewhere where you are comfortable and you are not vulnerable. It's not an issue about whether you want to keep men out, it's an issue about what's best for the vulnerable woman sitting there. I've gone to one of those other clubs. I was actually, in the legal terms, assaulted while I was working out because I was vulnerable. The man felt very comfortable coming up and touching me in an inappropriate place. That is vulnerable. I'm not vulnerable at Curves. These women want to work out. They want to be healthy. They're not asking for special privileges. They are just saying, 'Protect me, let me go somewhere where I'm not going to be embarrassed and I can get healthy.' It's written very tightly. If you want a Buffs, please get one and I'll pay. Thank you and just consider the women who are asking you for this. We're not stepping back. We're stepping forward. Things can change without it being a bad thing. It can actually be a good thing. Thank you.

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

Senator **DAVIS:** Thank you, Madame President. I would just like to respond a little bit to my good friend, the Senator from York, Senator Hobbins. When he speaks about advancing years at 54, I urge him to speak for himself. I mean that sincerely having lived several years more than he has. I don't feel advanced in age at all. I would be more than happy to go to any fitness center that is available here in the city or anywhere else with you, sir, and engage in exercise.

I'm not going to get into a great deal on this debate other than I'm going to say to you, Madame President, that the women in my life certainly are different, but they certainly are equal. Thank you.

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

Senator **SNOWE-MELLO:** Thank you, Madame President, ladies and gentlemen of the Senate. I ask you this, why do we have doctors that only treat women? For the health and welfare of the woman. In Wisconsin, which is a very progressive state in regards to social issues, they passed this bill to allow fitness studios that are just for women. In fact, all over the United States we have fitness studios that are just for men and just for women. The reason why Curves is so successful is because women feel they can exercise in a place where they feel safe. I think that is the word, safe. They can, for a half-an-hour each workout, know that no one is placing judgment on them, on how they look. This allows a lady to exercise in an atmosphere where they encourage a sense of ease. Many ladies who attend the Curves are older women, ladies who are even 84 years old go here because they feel comfortable. They would not go at all if men were there. Many ladies attend Curves are older women that feel self-consciousness. Before Curves they never would have thought of leaving their homes to go exercise. Absolutely never. Now they have the opportunity to be in a place with other women just like them.

I received, as many of you did, tons of letters on this. There were a few letters that stand out. One of them was from a Curves owner that said that she would never have joined a gym with men. She was raised by an abusive father, married an abusive man, and was taken advantage of by her male therapist. She needs the feeling of being safe around women while she exercises. That, ladies and gentlemen, is a very good reason why we need to put this into law. I ask you, are battered shelters gender based? Would a woman be accepted at a battered shelter for men or vice versa? Thank you.

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

Senator **DOW:** Thank you, Madame President, ladies and gentlemen of the Senate. Sometimes we try to pass a law or bill that is bullet proof and that will make it through the courts. I don't know if we can always do that, but I think there are some common sense solutions that the nation has already taken that stand out as solutions to this problem already. I would point to a couple of examples. One of them is the Little League in the United States. You might say, 'What's the Little League got to do with Curves?' Well, the precedent that they have set is what I

want to look at. In the old days, Little League was just for boys. Then it became apparent that girls wanted to play and so they allowed girls to play on these Little League teams. Eventually we established girl's softball teams, an equivalent sport. It's not exactly the same, but equivalent. We allowed them to play on these teams, and because we allowed them to have an equivalent sport, they could play on separate teams and they were deemed separate. They did not have the right to play on other teams. I believe that Title 9, when it came into the schools, did the same thing. It elevated women's sports into equality. How can I say just the opposite when I'm talking about Title 9 because take a look at what Title 9 did? When there were no girl's soccer teams, girls were allowed to play on the boy's soccer team. When girl's soccer teams came along, they played on those teams and were not allowed to play on each other's teams. I had a boy in my school that wanted to play field hockey. There was no equivalent boy's sport at that time, so he was allowed to play field hockey on the girl's team. That's anti-discrimination. When lacrosse came along, you had replaced field hockey with a similar and deemed equivalent sport. I believe this is the case here. We have similar and equivalent agencies that we can go to. I could go to the YMCA and workout with the equipment that I want to. Men and women go to those. We have a health facility in my town that men and women go to. The Curves facility is a little bit different in this sense. This equipment is designed for women. It's a little embarrassing for women to be put into some of these uncompromising positions, I understand. I can understand why they don't want me there, but I do have an equivalent place that I can go to, therefore I feel there is no discrimination because of the examples that we are running with in this country already, namely examples from the Little League and from the Title 9 projects. Thank you.

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

Senator **BROMLEY:** Thank you, Madame President, men and women of the Senate. I asked myself this morning, what is this bill really about? Is it about fitness? Access? I don't think so because these women are already members of Curves. In fact, I'm sure many of you have received letters like I received. Is it about women being afraid to go? I think not, because they are already there. I wondered if it might be about advertising and marketing because we've already named it the Curves Bill. I'm certain there is some benefit to that establishment. I did take a sample of the letters that I got and I called around to fifteen Curves establishments and asked them to explain to me what the problem was. Seven of them didn't know what I was referring to. I had a letter that had their name signed on it and they said, 'Oh, that thing.' All 15 of them said no man had ever come in the door to try to exercise there. My husband and I are going on a fitness regimen as soon as session is over. I talked about going to my local Curves and I said, 'Would you like to go?' He said, 'Are you kidding? Their signs are pink. They are for women. I'd never go there.' I submit that there isn't a problem, that Curves' management has brought this bill, not droves of women. If there were a compelling problem, if the entire gender of women in Maine were grossly overweight and the entire gender of men were not, then I would say we probably ought to have this debate. To pass a sort of exclusion as a feminist, quite frankly, is like we're saying, 'We've got ours and we're going to shut the door.' It doesn't feel good to me. If there were a compelling reason, I

would at least be interested in having the debate. My comfort doesn't feel like a compelling reason because if we take men and change that to Native Americans or tall people of color or middle eastern people or whatever we might feel uncomfortable around, it feels very vulnerable and feels like a very slippery slope here. I don't see a compelling reason. There was not a problem demonstrated in the committee. There was not a problem demonstrated in my 15 phone calls. I did not call every Curves establishment, but I did call 15. Every single one of them said a man has never come in wanting to exercise. I would say to you that there is not a compelling problem. In the absence of a compelling problem, I urge you not to take this even somewhat baby step down this slippery slope of exclusion. Thank you, ladies and gentlemen.

THE PRESIDENT: The Senator from Androscoggin, Senator Snowe-Mello, requests unanimous consent of the Senate to address the Senate a third time on this matter. Hearing no objection, the Senator may proceed.

Senator **SNOWE-MELLO:** Thank you, Madame President and ladies and gentlemen of the Senate. It might be very true what she just said, but remember there's over 100 Curves fitness studios all over Maine. Many of them have had men call. Many of the Curves have had men call and ask them, point blank, 'Do you allow men?' Of course they have had to say yes. Not one of those men has showed up to join Curves. There one fitness studio that does have a man attend and very few other people attend when this gentleman goes.

I'm going to read you another letter. 'I am a 65 year old woman who has never qualified for body beautiful. At Curves Women's Only I am free to condition this body in a safe, nurturing, and non-judgmental environment. I would never pay membership in a co-ed facility.' It is a problem. Maybe not in the 15 studios the good Senator mentioned, but there is a problem in other studios. That is why this bill was put in. It is not a marketing tool. I really take offence to that. Thank you very much.

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

Senator **PLOWMAN:** Thank you, Madame President, men and women of the Senate. I just want to say that at our Curves we had a man who just wanted to come and watch.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Hobbins to Accept the Majority 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 (#131)

YEAS: Senators: BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, GAGNON, HOBBS, MARTIN, MAYO, ROSEN, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, TURNER, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: CLUKEY, COURTNEY, DAMON, DAVIS, DIAMOND, DOW, HASTINGS, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, SAVAGE, SNOWE-MELLO, WESTON, WOODCOCK

ABSENT: Senator: ANDREWS

16 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **HOBBS** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **FAILED**.

The Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-137) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (5/12/05) Assigned matter:

Bill "An Act To Protect Certain Elderly or Incompetent Dependents"

H.P. 795 L.D. 1152
(C "A" H-324)

Tabled - May 12, 2005, by Senator **WESTON** of Waldo

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-324)**, in concurrence

(In House, May 11, 2005, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-324)**.)

(In Senate, May 12, 2005, **READ A SECOND TIME**.)

On motion by Senator **MILLS** of Somerset, 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 Somerset, Senator Mills.

Senator **MILLS:** Thank you, Madame President and men and women of the Senate. I take issue with this bill for some reasons that will take me just a moment to explain. We currently have a law on the books that makes it a criminal offense, punishable by up to a year in jail, it's a Class D offense, to neglect the care, the health, the safety, or mental welfare of a dependent person who is dependent either because of age, physical or mental disease or disorder, or mental or emotional defect. This law was passed some years ago and it's been on the books for a while. It bothered me when I read the definition of the person who could be subjected to criminal prosecution under this law. It applies to

anyone who has assumed a legal duty to care for a dependent person. It goes on to say that a legal duty may be inferred, that is evidence may be created of your duty, if you, the person being prosecuted, has assumed responsibility for the care of the dependent person. In some situations I hadn't any quarrel with this as a statute or as a concept. There are so many situations where you have a person assuming responsibility for the care of a neighbor. You have your CAP agency transporting people. You have parents who have a natural legal duty to care for a child but may not be able to care for that child if that child has a mental illness or has behavioral issues that are out of the control of the parent. The statute says that, in addition to any moral culpability you may have for not taking adequate care of a dependent person, you can be prosecuted by the state if you assume any measure of responsibility for the care of a dependent person and then for some reason fail to continue that care. Maybe you don't show up one day or something else happens while you're under this assumed responsibility.

The bill that lies before us this afternoon is a bill that would enhance the penalty for this crime if there is an intentional or knowing endangerment of a dependent person. The current law says that you are guilty of this crime if you commit it either recklessly or intentionally and it punishes you the same for either violation. The bill that lies before us would enhance the penalty and make you guilty of a felony and subject you to up to 5 years imprisonment if you either intentionally or knowingly subject the dependent person to endangerment.

I know that we have an obligation to have laws on the books that are adequate to protect dependent people. I am deeply concerned that this law could apply to people who have sort of unwittingly assumed, perhaps voluntarily, volunteer duties in the care of someone who is dependent and then finds themselves later subject to a criminal prosecution when they, themselves, are no longer able to continue rendering that care, attention, or visitation. It means that the Good Samaritan that doesn't show up as he or she may have been accustomed to showing up could be subjected to criminal prosecution. This bill makes the current law worse by saying that you could a felon if you neglect and endanger the person knowingly, whatever that means.

I don't know if the committee was given any evidence at all that the current law is somehow inadequate. You can obviously tell that I'm disturbed by the current law and by the number of people that might be subjected to its sanctions. I'm surely disturbed, even more so, by the notion that we would enhance the impact of this law by saying that you could be guilty of a felony just because you volunteered to take care of somebody and then on a given day, knowingly, failed to render assistance that this person might have become dependent upon. I just find it very disturbing that we would punish Good Samaritans for their efforts in taking care of dependent people. You can say, 'Well, the District Attorney or the Attorney General's Office has some discretion about whether to prosecute.' I don't quarrel with that. What I am bothered about is that it gives the state the power to prosecute somebody in a situation where, I think, we should more tightly constrain the power of the state. I'm just disturbed at giving the Attorney General or the D.A.'s offices the power to prosecute cases that might cross over the line to situations that we might recoil at. It's a troublesome bill. I don't understand the need for enhancing this law at this time. At the very least, I would suggest we leave it for another day. That is the reason why I've asked for a roll call and would ask that this amendment to the existing bill be defeated. Thank you.

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

Senator **DIAMOND:** Thank you, Madame President, men and women of the Senate. It's a pleasure to get up and maybe shed a little more light on this than the good Senator from Somerset, Senator Mills, was able to read into the amendment. First of, it's a unanimous committee report. Nobody at the committee hearing testified against it. The bill was put in by the Attorney General's Office. The reason it was put in is to address a very serious issue and that is elder abuse. It wasn't just an idea that somebody had and decided that they guessed they would throw this bill in. It is a very serious bill for very serious reasons.

The current law, as you know and as you just heard, says it is a Class D crime if you knowingly, intentionally, or recklessly cause the endangerment of the welfare of an elderly or dependent. The amendment says knowingly and intentionally, not by failing to show up at someone's house. Much different. Many of you have heard of the Criminal Law Advisory Commission, CLAC. Not a very appropriate acronym for a very heady group I'm afraid. That is what they are called, CLAC, Criminal Law Advisory Commission. There are some pretty good people on this and they helped write this amendment. In fact, not only did they help write it, most of the writing is their work because they work with our committee as they do the Judiciary Committee, as they do the Health and Human Services Committee, and as they do the Legal and Veterans Affairs Committee. They are very much involved. Who are these people, you say, that would be wanting and advocating for this bill? Well, let's take a look. We have prosecutors in D.A. offices. We have defense attorneys. We have Charles Leadbetter, who is one of the best legal minds, I think, in this state. We have Professor Zarr from the University of Maine Law School consulting with CLAC. Justice Robert Clifford, Justice John Atwood, and Judge William Anderson. We don't take these names lightly, nor do we take what they advise in the committee lightly. They all support this because of the serious issue of abuse. This bill was also supported, because of the neglect and physical abuse that is taking place, by a group that is called the Maine Elder Death Analysis Review Team. These people are very concerned about the existing abuse. Let's see who is on there. We have the Healthcare Crime Unit from the A.G.'s Office, the Department of Corrections, the Chief Medical Examiner, Long Term Care Ombudsman Program, the Bureau of Elderly and Adult Services, the Maine Chiefs of Police, and the State Police. These people deal with this abuse on a regular basis. They are all advocates for this bill, that is why it is a unanimous committee report. Most of the major elder and senior citizen groups advocate for this bill, which is why there was no opposition to the bill.

I have the capability and the information to get into the minutia of all the reasons, all the cases, and all the people who support this and why. I'd be happy to do that, but I can say to you now that this bill is very seriously needed and advocated by those who deal with this abuse and neglect every day. It's not as you heard, that someone might unwittingly do some harm and neglect. It's those who intentionally do it, and it happens way too often. I would urge you to vote for this. We didn't have all of the brilliant legal minds at the committee or advising us, but we had many. I would encourage you to vote for this unanimous committee report, which is taken very seriously. I might also add that this bill was given maybe more consideration than many of

the other bills we deal with because of its very nature. No one working on this bill, work session, or public hearing took this lightly, nor do I or any members of my committee. I would urge you to vote for the passage of this bill. 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 appreciate the work that has gone into this bill and I appreciate that it is a unanimous report. However, I would like to pose a question through the Chair.

THE PRESIDENT: The Senator may pose her question.

Senator **PLOWMAN:** Thank you, Madame President. On page 2 of the amendment, paragraph 2, the sentence that reads; 'For purposes of this section, a legal duty maybe inferred if the defendant has assumed responsibility for the care of the dependent person.' At what point, and is this described somewhere in law, is the responsibility taken? What I am thinking of is the gentleman who comes by five nights a week and delivers the Meals from Maine. Has he taken responsibility? Is it my responsibility because I checked in on a brother who's mentally ill and helped him through this week's crisis but next week I feel that he's okay? I'm just asking, at what level, because the word inferred kind of worries me.

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 Cumberland, Senator Diamond.

Senator **DIAMOND:** Thank you, Madame President, men and women of the Senate. Thank you for the question. We were reassured on several different fronts that the term legal duty pertained just to that, not to the casual or occasional or the Good Samaritan approach. I have no concerns about that word nor do I have any concerns about its implications because of the reassurance we've had. Again, it wasn't just this area, we were concerned more about making that distinction, as this amendment does, between intentionally and knowingly versus recklessly, which could be someone who was supposed to show up but didn't. That's a whole different category and a whole different bucket of fish, as my good friend might say. Thank you.

THE PRESIDENT: The pending question before the Senate is Passage to be Engrossed. 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 (#132)

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

NAYS: Senators: HASTINGS, MILLS, NASS

ABSENT: Senator: ANDREWS

31 Senators having voted in the affirmative and 3 Senators having voted in the negative, with 1 Senator being absent, was **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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

COMMUNICATIONS

The Following Communication: S.C. 309

**MAINE STATE LEGISLATURE
COMMITTEE ON AGRICULTURE, CONSERVATION AND
FORESTRY
AUGUSTA, MAINE 04333**

May 12, 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 Agriculture, Conservation and Forestry has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1547 An Act To Ensure Appropriate Development in Lands under the Jurisdiction of the Maine Land Use Regulation Commission

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

Sincerely,

S/Sen. John M. Nutting
Senate Chair

S/Rep. John F. Piotti
House Chair

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

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

COMMUNICATIONS

The Following Communication: S.C. 310

**MAINE STATE LEGISLATURE
COMMITTEE ON LEGAL AND VETERANS' AFFAIRS
AUGUSTA, MAINE 04333**

May 12, 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 Legal and Veterans Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 368 An Act To Amend the Maine Clean Election Act

L.D. 1345 An Act To End the Influence of Special Interest Money in Campaign Financing

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

Sincerely,

S/Sen. Kenneth T. Gagnon
Senate Chair

S/Rep. John L. Patrick
House Chair

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

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

COMMUNICATIONS

The Following Communication: S.C. 311

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

May 16, 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 Natural Resources has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 818 An Act To Specify Phosphorus Limits for Gulf Island Pond

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

Sincerely,

S/Sen. Scott W. Cowger
Senate Chair

S/Rep. Theodore Koffman
House Chair

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

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

COMMUNICATIONS

The Following Communication: S.C. 312

**MAINE STATE LEGISLATURE
COMMITTEE ON AGRICULTURE, CONSERVATION AND
FORESTRY
AUGUSTA, MAINE 04333**

May 16, 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 Agriculture, Conservation and Forestry has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1256 An Act To Ensure Public Awareness of Pesticide Applications

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

Sincerely,

S/Sen. John M. Nutting
Senate Chair

S/Rep. John F. Piotti
House Chair

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

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

COMMUNICATIONS

The Following Communication: S.C. 313

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

May 16, 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 Taxation has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1520 An Act To Provide Reimbursement for Road Maintenance to Property Owners in the Unorganized Territory

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

Sincerely,

S/Sen. Joseph C. Perry
Senate Chair

S/Rep. Richard G. Woodbury
House Chair

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

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

ORDERS OF THE DAY

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

Tabled - May 17, 2005, by Senator **GAGNON** of Kennebec

Pending - motion by Senator **PLOWMAN** of Penobscot to **RECONSIDER**

(In Senate, April 26, 2005, on motion by Senator **STRIMLING** of Cumberland, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**. Senator **PLOWMAN** of Penobscot moved to **RECONSIDER**.)

Senator **PLOWMAN** of Penobscot requested and received leave of the Senate to withdraw her motion to **RECONSIDER**.

Sent down for concurrence.

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

HOUSE REPORT - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Amend the Laws Governing the Funding of State Special Elections"

H.P. 66 L.D. 70

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-354)**

Tabled - May 17, 2005, by Senator **BRENNAN** of Cumberland

Pending - **ACCEPTANCE OF REPORT**, in concurrence

(In House, May 16, 2005, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-354)**.)

(In Senate, May 17, 2005, Report **READ** and **ACCEPTED**, in concurrence. On motion by Senator **BRENNAN** of Cumberland, **RECONSIDERED**.)

Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-354) **READ** and **ADOPTED**, in concurrence.

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

Off Record Remarks

On motion by Senator **BRENNAN** of Cumberland, **ADJOURNED**, to Wednesday, May 18, 2005, at 10:00 in the morning.