

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Second Legislature

State of Maine

Daily Edition

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

In Senate Chamber
Thursday
May 19, 2005

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

Prayer by Reverend Susan O. Gilpin of the Prides Corner United
Church of Christ of Westbrook.

REVEREND GILPIN: In 1578 Elizabeth was Queen of England and the burning issues of the day were issues of religion. Parliament had a difficult job in those days, as Parliaments, I think, always do. The Speaker of the House of Commons was a former judge named Sir Christopher Yelverton. He was responsible to the Queen. In my daily devotions, one day this year, I came across the House of Commons Prayer that was offered by Sir Christopher Yelverton in 1578. It struck me that, in many ways, not much has changed. Each of you has a copy of this prayer on your desk. I would invite you to join me in this prayer by reading it together aloud. It is a Christian prayer and I've been asked to come with a non-sectarian prayer. For those of you who are not Christians, I'm going to warn you now that the last two lines are specifically Christian and I'm going to invite you to simply omit those and substitute, in your own mind, something more in keeping with your faith's tradition. The emphasis here on justice and mercy, which rings through this prayer, is common to our Parliamentary traditions. That is why I chose it for today. We also don't have Kings any more, but we can translate that. I invite you to pray with me.

Almighty God, by whom alone kings reign and princes decree justice and from whom alone come all counsel, wisdom, and understanding, we, Your unworthy servants, gather together here in Your name, do most humbly beseech You to send down the heavenly wisdom from above to direct and guide us in all our consultations and grant that, as we look to You with awe, and lay aside all private interests, prejudices, and partiality, the result of all our counsels may be the glory of Your blessed name, the maintenance of true religion and justice, the safety, honor, and happiness of the King, the public welfare, peace, and tranquility of the realm, and the uniting and knitting together of the hearts of all persons and estates within the realm in true Christian love and charity towards one another, through Jesus Christ our Lord and Savior. Amen.

Reading of the Journal of Wednesday, May 18, 2005.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.C. 320

MAINE STATE LEGISLATURE
COMMITTEE ON JUDICIARY
AUGUSTA, MAINE 04333

May 17, 2005

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

Dear Madame President:

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

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

YEAS	Senators	2	Hastings of Cumberland, Hobbins of York
	Representatives	8	Bryant of Windham, Canavan of Waterville, Carr of Lincoln, Dunn of Bangor, Faircloth of Bangor, Nass of Acton, Pelletier-Simpson of Auburn, Sherman of Hodgdon
NAYS		0	
ABSENT		3	Sen. Bromley of Cumberland, Rep. Bryant-Deschenes of Turner, Rep. Gerzofsky of Brunswick

Ten members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Honorable Thomas E. Humphrey of Portland, for reappointment as a Superior Court Justice be confirmed.

Signed,

S/Barry J. Hobbins
Senate Chair

S/Deborah Pelletier-Simpson
House Chair

READ and ORDERED PLACED ON FILE.

LEGISLATIVE RECORD - SENATE, THURSDAY, MAY 19, 2005

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#136)

YEAS: Senators: None

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

ABSENT: Senators: MILLS, NUTTING, PLOWMAN

No Senator having voted in the affirmative and 32 Senators having voted in the negative, with 3 Senators being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of the Honorable **Thomas E. Humphrey** of Portland, for reappointment as a Superior Court Justice was **CONFIRMED**.

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

The Following Communication: S.C. 321

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

May 17, 2005

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

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 122nd Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Honorable Jessie B. Gunther of Bangor, for reappointment as a District Court Judge.

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

YEAS	Senators	2	Hastings of Cumberland, Hobbins of York
	Representatives	9	Bryant of Windham, Canavan of Waterville, Carr of Lincoln, Dunn of Bangor, Faircloth of Bangor, Gerzofsky of Brunswick, Nass of Acton, Pelletier-Simpson of Auburn, Sherman of Hodgdon
NAYS		0	
ABSENT		2	Sen. Bromley of Cumberland, Rep. Bryant-Deschenes of Turner

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Honorable Jessie B. Gunther of Bangor, for reappointment as a District Court Judge be confirmed.

Signed,

S/Barry J. Hobbins
Senate Chair

S/Deborah Pelletier-Simpson
House Chair

READ and ORDERED PLACED ON FILE.

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#137)

YEAS: Senators: None

LEGISLATIVE RECORD - SENATE, THURSDAY, MAY 19, 2005

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

NAYS 0
ABSENT 2 Sen. Bromley of Cumberland, Rep. Bryant-Deschenes of Turner

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Honorable Thomas D. Warren of Portland, for reappointment as a Superior Court Justice be confirmed.

ABSENT: Senators: MILLS, NUTTING, PLOWMAN

No Senator having voted in the affirmative and 32 Senators having voted in the negative, with 3 Senators being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be ACCEPTED and the nomination of the Honorable Jessie B. Gunther of Bangor, for reappointment as a District Court Judge was CONFIRMED.

Signed,

S/Barry J. Hobbins
Senate Chair

S/Deborah Pelletier-Simpson
House Chair

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

READ and ORDERED PLACED ON FILE.

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

The Following Communication: S.C. 322

MAINE STATE LEGISLATURE
COMMITTEE ON JUDICIARY
AUGUSTA, MAINE 04333

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

May 17, 2005

The Doorkeepers secured the Chamber.

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

The Secretary opened the vote.

ROLL CALL (#138)

Dear Madame President:

YEAS: Senators: None

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

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

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

ABSENT: Senators: MILLS, NUTTING

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

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 2 Senators being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be ACCEPTED and the nomination of the Honorable Thomas D. Warren of Portland, for reappointment as a Superior Court Justice CONFIRMED.

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

The Following Communication: S.C. 318

**MAINE STATE LEGISLATURE
COMMITTEE ON UTILITIES AND ENERGY
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 Utilities and Energy has voted
unanimously to report the following bill out "Ought Not to Pass":

L.D. 1434 An Act To Reform the Renewable Electricity
Portfolio Standard

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

Sincerely,

S/Sen. Philip L. Bartlett II
Senate Chair

S/Rep. Lawrence Bliss
House Chair

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

The Following Communication: S.C. 319

**MAINE STATE LEGISLATURE
COMMITTEE ON BUSINESS, RESEARCH
AND ECONOMIC DEVELOPMENT
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 Business, Research and Economic
Development has voted unanimously to report the following bills
out "Ought Not to Pass":

L.D. 1023 An Act Requiring Stores of 500 Square Feet To
Make Existing Bathroom Facilities Available for
Public Use

L.D. 1139 An Act To Identify the Benefits and Costs of
Adjustments to Building Codes

L.D. 1167 An Act To Ensure the Health and Safety of All
Maine Citizens by Licensing Drug Wholesalers

L.D. 1215 Resolve, To Benefit the Creative Economy

L.D. 1352 An Act To Establish the Office of the Small
Business Ombudsman

L.D. 1427 An Act Regarding the Scope of Practice of
Registered Cardiovascular Invasive Specialists

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

Sincerely,

S/Sen. Lynn Bromley
Senate Chair

S/Rep. Nancy E. Smith
House Chair

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

SENATE PAPERS

Bill "An Act To Replace the Interagency Task Force on
Homelessness and Housing Opportunities with the Statewide
Homeless Council"

S.P. 624 L.D. 1678

Sponsored by President EDMONDS of Cumberland.
(GOVERNOR'S BILL)
Cosponsored by Speaker RICHARDSON of Brunswick and
Senators: BROMLEY of Cumberland, DOW of Lincoln,
Representatives: BEAUDETTE of Biddeford, BLANCHETTE of
Bangor, FISCHER of Presque Isle, RECTOR of Thomaston,
SMITH of Monmouth, TARDY of Newport.

On motion by Senator **BROMLEY** of Cumberland, **REFERRED** to
the Committee on **BUSINESS, RESEARCH AND ECONOMIC
DEVELOPMENT** and ordered printed.

Sent down for concurrence.

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act Regarding the Licensing of Foresters"

H.P. 960 L.D. 1383

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

Signed:

Senators:

BROMLEY of Cumberland
HOBBINS of York
DOW of Lincoln

Representatives:

SMITH of Monmouth
O'BRIEN of Lewiston
AUSTIN of Gray
ROBINSON of Raymond
RECTOR of Thomaston
FARRINGTON of Gorham
BERUBE of Lisbon
BEAUDETTE of Biddeford
CROSBY of Topsham

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

Signed:

Representative:

JACOBSEN of Waterboro

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

Reports **READ**.

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

Divided Report

The Majority of the Committee on **INSURANCE AND FINANCIAL SERVICES** on Resolve, Directing the Maine State Retirement System To Develop a Proposal To Provide Relief for Retired State Employees

H.P. 787 L.D. 1144

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

Signed:

Senators:

SULLIVAN of York
MAYO of Sagadahoc
MILLS of Somerset

Representatives:

PERRY of Calais
McKANE of Newcastle
LINDELL of Frankfort
PILON of Saco
VAUGHAN of Durham
GLYNN of South Portland
RICHARDSON of Warren
MARRACHÉ of Waterville

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-396)**.

Signed:

Representatives:

BRAUTIGAM of Falmouth
HARLOW of Portland

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

Reports **READ**.

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

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act To Improve Prevailing Wage Standards in Maine"

H.P. 135 L.D. 184

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

Signed:

Senator:

SNOWE-MELLO of Androscoggin

Representatives:

SMITH of Van Buren
DRISCOLL of Westbrook
HALL of Holden
DUPREY of Hampden
CRESSEY of Cornish
HAMPER of Oxford

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-375)**.

Signed:

Senators:

STRIMLING of Cumberland
BARTLETT of Cumberland

Representatives:

JACKSON of Fort Kent
HUTTON of Bowdoinham
TUTTLE of Sanford
CLARK of Millinocket

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

Reports **READ**.

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

Senate

Ought to Pass As Amended

Senator MITCHELL for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, Regarding the No Child Left Behind Act of 2001

S.P. 212 L.D. 676

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-200)**.

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

READ ONCE.

Committee Amendment "A" (S-200) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator GAGNON for the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Promote Economic Development in Commercial and Downtown Areas of the State" (EMERGENCY)

S.P. 463 L.D. 1336

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-204)**.

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

READ ONCE.

Committee Amendment "A" (S-204) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator GAGNON for the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act Regarding the Commission on Governmental Ethics and Election Practices" (EMERGENCY)

S.P. 573 L.D. 1599

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-205)**.

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

READ ONCE.

Committee Amendment "A" (S-205) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator GAGNON for the Committee on **LEGAL AND VETERANS AFFAIRS** on Resolve, To Establish a Commission To Evaluate Criteria for Siting Agency Liquor Stores

S.P. 574 L.D. 1600

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-206)**.

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

READ ONCE.

Committee Amendment "A" (S-206) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Amend the Maine Consumer Credit Code - Credit Services Organizations"

S.P. 222 L.D. 686

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-198)**.

Signed:

Senators:

BROMLEY of Cumberland
DOW of Lincoln

Representatives:

SMITH of Monmouth
O'BRIEN of Lewiston
AUSTIN of Gray
ROBINSON of Raymond
RECTOR of Thomaston
FARRINGTON of Gorham
BERUBE of Lisbon
BEAUDETTE of Biddeford
JACOBSEN of Waterboro

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (S-199)**.

Signed:

Representative:

CROSBY of Topsham

Reports **READ**.

On motion by Senator **BROMLEY** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-198)** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-198) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Protect Use of Municipal Seals"

S.P. 479 L.D. 1380

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-202)**.

Signed:

Senators:

SCHNEIDER of Penobscot
ROTUNDO of Androscoggin
ANDREWS of York

Representatives:

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

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (S-203)**.

Signed:

Representative:

SCHATZ of Blue Hill

Reports **READ**.

On motion by Senator **SCHNEIDER** of Penobscot, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-202)** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-202) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

SECOND READERS

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

House

Bill "An Act To Amend the Laws Concerning the Maine State Retirement System"

H.P. 299 L.D. 396

Bill "An Act To Amend the Maine Criminal Code Regarding Deferred Disposition and Administrative Release"

H.P. 939 L.D. 1356

Resolve, Regarding Legislative Review of Portions of Chapter 750: Standardized Health Plans, a Major Substantive Rule of the Department of Professional and Financial Regulation, Bureau of Insurance (EMERGENCY)

H.P. 1129 L.D. 1593

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

House As Amended

Bill "An Act To Improve Communication, Cooperation and Efficiencies in State Government"

H.P. 97 L.D. 121
(C "A" H-389)

LEGISLATIVE RECORD - SENATE, THURSDAY, MAY 19, 2005

Bill "An Act To Rename the Bangor Mental Health Institute the Dorothea Dix Center for Public Service and To Establish the Dorothea Dix Award"

H.P. 416 L.D. 561
(C "A" H-349)

Bill "An Act To Make Safer Schools"

H.P. 709 L.D. 1024
(C "A" H-393)

Resolve, Regarding Teacher Certification Requirements

H.P. 1008 L.D. 1444
(C "A" H-394)

Bill "An Act Regarding the Budget Process for the Legislative Youth Advisory Council"

H.P. 1056 L.D. 1511
(C "A" H-390)

Bill "An Act Concerning Technical Changes to the Tax Laws"

H.P. 1087 L.D. 1546
(C "A" H-391)

Bill "An Act To Create an Insurance Fraud Unit within the Bureau of Insurance"

H.P. 1099 L.D. 1561
(C "A" H-395)

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

Bill "An Act To Make Minor Substantive Changes to the Tax Laws"

H.P. 1024 L.D. 1462
(C "A" H-392)

READ A SECOND TIME.

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

Senate

Bill "An Act To Amend the Sentencing Laws" (EMERGENCY)
S.P. 521 L.D. 1505

READ A SECOND TIME and PASSED TO BE ENGROSSED.

Sent down for concurrence.

Senate As Amended

Bill "An Act To Improve the Role of Boards of Visitors for State Correctional Facilities"

S.P. 141 L.D. 417
(C "A" S-194)

Bill "An Act To Provide Access to Maine's Resources to Veterans of the Iraq War" (EMERGENCY)

S.P. 204 L.D. 649
(C "A" S-197)

Bill "An Act To Appropriate Funds for the School Breakfast Program"

S.P. 535 L.D. 1540
(C "A" S-195)

Bill "An Act To Authorize the Deorganization of the Town of Cooper"

S.P. 603 L.D. 1626
(C "A" S-196)

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

Sent down for concurrence.

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 Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 115: Certification, Authorization and Approval of Educational Personnel, Part I and Part II, a Major Substantive Rule of the Department of Education

H.P. 1075 L.D. 1530

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 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 the Housing Discrimination Laws
S.P. 99 L.D. 321
(C "A" S-136)

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 Amend the Laws Governing the Student Code of Conduct

H.P. 419 L.D. 564
(C "A" H-333)

Comes From the House, Bill and accompanying papers **COMMITTED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**.

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

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

REPORTS OF COMMITTEES

Senate

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Allow Abstinence To Be Offered as an Alternative Education Program for Grades 7 to 12"
S.P. 605 L.D. 1639

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

Signed:

Senators:

MITCHELL of Kennebec
SCHNEIDER of Penobscot
TURNER of Cumberland

Representatives:

NORTON of Bangor
FINCH of Fairfield
GOLDMAN of Cape Elizabeth
MAKAS of Lewiston
CAIN of Orono
MERRILL of Appleton

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

Signed:

Representatives:

DAVIS of Falmouth
EDGECOMB of Caribou
STEDMAN of Hartland
LANSLEY of Sabattus

Reports **READ**.

Senator **MITCHELL** of Kennebec moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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.

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

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator **BROMLEY** for the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act Regarding Licensing Boards"

S.P. 505 L.D. 1480

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-208)**.

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

READ ONCE.

Committee Amendment "A" (S-208) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator **DAMON** for the Committee on **MARINE RESOURCES** on Bill "An Act To Establish Harbor Master Standards and Training Requirements"

S.P. 584 L.D. 1603

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-207)**.

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

READ ONCE.

Committee Amendment "A" (S-207) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

Off Record Remarks

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

Off Record Remarks

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

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

Senator **STRIMLING** of Cumberland 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 4:00 in the afternoon.

After Recess

Senate called to order by the President.

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2006 and June 30, 2007" (EMERGENCY)
H.P. 1186 L.D. 1677

Comes from the House, **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and ordered printed.

On motion by Senator **GAGNON** of Kennebec, **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

House Paper

Resolve, Authorizing the President of the Maine Community College System To Sell 1.37 Acres of Real Property Owned by Southern Maine Community College in South Portland
H.P. 1185 L.D. 1676

Committee on **EDUCATION AND CULTURAL AFFAIRS** suggested and ordered printed.

Comes from the House, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee, 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 **LABOR** on Bill "An Act To Require Inspectors from the Department of Labor, Bureau of Labor Standards To Provide Advance Notice of Inspections" H.P. 832 L.D. 1214

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

Signed:

Senators:

STRIMLING of Cumberland
BARTLETT of Cumberland
SNOWE-MELLO of Androscoggin

Representatives:

SMITH of Van Buren
DRISCOLL of Westbrook
JACKSON of Fort Kent
HALL of Holden
HUTTON of Bowdoinham
DUPREY of Hampden
CRESSEY of Cornish
TUTTLE of Sanford
HAMPER of Oxford

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

Signed:

Representative:

CLARK of Millinocket

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

Reports **READ**.

On motion by Senator **STRIMLING** of Cumberland, 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

Senate

Divided Report

The Majority of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act Regarding National Forests"

S.P. 484 L.D. 1395

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-212)**.

Signed:

Senators:

NUTTING of Androscoggin
BRYANT of Oxford
RAYE of Washington

Representatives:

PIOTTI of Unity
CARR of Lincoln
JODREY of Bethel
JENNINGS of Leeds
MAREAN of Hollis
LUNDEEN of Mars Hill
FLOOD of Winthrop
SHERMAN of Hodgdon
PINEAU of Jay

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

Signed:

Representative:

TWOMEY of Biddeford

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (S-212) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator MAYO for the Committee on **HEALTH AND HUMAN SERVICES** on Resolve, To Improve Medical Eligibility Assessments for Long-term Care Consumers S.P. 171 L.D. 545

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-209)**.

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

READ ONCE.

Committee Amendment "A" (S-209) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator MAYO for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act Pertaining to Reporting of Prescription Drug Advertising Costs"

S.P. 534 L.D. 1539

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-210).**

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

READ ONCE.

Committee Amendment "A" (S-210) **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:

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator MAYO for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Amend the Laws Governing Reimbursement of Nursing Facilities and Nursing Home Admission Contracts"

S.P. 509 L.D. 1483

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

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

READ ONCE.

Committee Amendment "A" (S-211) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Increase Faculty in Maine Nursing Education Programs"

H.P. 1051 L.D. 1494

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-401).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-401).**

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

READ ONCE.

Committee Amendment "A" (H-401) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **MARINE RESOURCES** on Resolve, Regarding Legislative Review of Portions of Chapter 2: Aquaculture Lease Regulations - Lighting Standards and Noise Standards, a Major Substantive Rule of the Department of Marine Resources (EMERGENCY)

H.P. 1142 L.D. 1619

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-408).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-408).**

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

READ ONCE.

Committee Amendment "A" (H-408) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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 **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Resolve, To Increase Small Business Access to State Contracts

H.P. 699 L.D. 1015

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-400)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-400)**.

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

READ ONCE.

Committee Amendment "A" (H-400) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Create Freedom of Citizen Information Regarding Ballot Questions and Political Action Committees"

H.P. 648 L.D. 929

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-412)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-412)**.

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

READ ONCE.

Committee Amendment "A" (H-412) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **LABOR** on Bill "An Act To Recognize the Federal Salary Level for Overtime When Higher than the State Level"

H.P. 165 L.D. 214

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.

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

ORDERS

Joint Order

On motion by Senator **DAMON** of Hancock, the following Joint Order:

S.P. 626

ORDERED, the House concurring, that Bill, "An Act To Allow Emergency Responders To Equip Their Vehicles with 2 Emergency Flashing Lights," H.P. 182, L.D. 243, and all its accompanying papers, be recalled from the Governor's desk to the Senate.

READ and **PASSED**.

Sent down for concurrence.

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

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 (5/12/05) Assigned matter:

SENATE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Amend the Hospital Tax" S.P. 224 L.D. 687

Majority - **Ought Not to Pass** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-164)** (5 members)

Tabled - May 12, 2005, by Senator **GAGNON** of Kennebec

Pending - motion by Senator **MAYO** of Sagadahoc to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report

(In Senate, May 12, 2005 Reports **READ**.)

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

Senator **ROSEN:** Thank you, Madame President, men and women of the Senate. We had a very informative discussion around this general subject the other day, so I'll just remind folks that they have another opportunity to take a second look at this in a very specific manner. If you recall, this particular bill would repeal the current rate of the tax on the hospitals in the tax and match funding mechanism that was put in place last year and would roll it back to the original rate that was put upon the hospitals the year prior. If you recall, two years ago Maine went to a hospital tax to use as a tax and match funding mechanism at the rate of .74% of gross receipts. The next year that rate was tripled. This bill will move it back to the original rate that was placed two years ago. I hope you reject the majority report, the motion that is before you. Please vote against that motion and go on to adopt the minority report.

Same Senator requested a Roll Call.

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

Senator **MAYO:** Thank you, Madame President, ladies and gentlemen of the Senate. The good Senator from Hancock, Senator Rosen, is correct. We certainly debated this issue at length yesterday. I believe somewhere in the neighborhood of an hour and fifteen minutes. This could be considered a repeat of yesterday. I would urge the members of this body to vote as they did yesterday, to accept the majority Ought Not to Pass report. The good Senator from Hancock, Senator Rosen, was correct. This does roll back the tax on hospitals from 2.23% to .74%. However, in doing that it opens a hole in our biennial budget approaching \$75 million. If the good Senator could tell me where in the budget, which we approved, he intends to obtain the \$75 million then I think we might have a rather interesting debate. In the absence of the information, I don't think it is very prudent for this body to vote to open a hole of that magnitude in something that we've already done. I would urge your support of the majority Ought Not to Pass motion. Thank you.

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

Senator **ANDREWS:** Thank you, Madame President, men and women of the Senate. I will not belabor this. We did debate it long and hard yesterday. This bill is different than the one we debated yesterday. If you remember, I told you there were 30

hospitals out of the 39 who are sustaining losses under the so-called tax and match. Just this decrease in the amount that these facilities are taxed could mean the difference for them not having to go to a credit line of borrowing to pay their salaries and keep their doors open. Please consider the merits of this bill and vote against the pending motion. Thank you.

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

On motion by Senator **BRENNAN** of Cumberland, **TABLED** until Later in Today's Session, pending the motion by Senator **MAYO** of Sagadahoc to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report. (Roll Call Ordered)

The Chair laid before the Senate the following Tabled and Later (5/17/05) Assigned matter:

Resolve

Resolve, To Establish the Study Commission Regarding Liveable Wages

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

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

Pending - **FINAL PASSAGE**, in **NON-CONCURRENCE**

(In Senate, May 10, 2005, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-232)**, in concurrence.)

(In House, May 16, 2005, **FAILED FINAL PASSAGE**.)

On motion by Senator **STRIMLING** of Cumberland, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-232)**, in concurrence.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-232), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-213) to Committee Amendment "A" (H-232) **READ**.

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

Senator **STRIMLING:** Thank you, Madame President. The amendment that we have offered strikes the emergency preamble on it and also changes a couple of dates. If the bill does pass, it will start a little bit later.

LEGISLATIVE RECORD - SENATE, THURSDAY, MAY 19, 2005

On motion by Senator **STRIMLING** of Cumberland, Senate Amendment "A" (S-213) to Committee Amendment "A" (H-232) **ADOPTED**.

Committee Amendment "A" (H-232) as Amended by Senate Amendment "A" (S-213) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-232) AS AMENDED BY SENATE AMENDMENT "A" (S-213) thereto, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

The Chair laid before the Senate the following Tabled and Later (5/18/05) Assigned matter:

An Act To Amend the Law on Mercury-added Products
H.P. 136 L.D. 185
(C "A" H-271)

Tabled - May 18, 2005, by Senator **DAVIS** of Piscataquis

Pending - **ENACTMENT**, in concurrence (Roll Call Requested)

(In Senate, May 11, 2005, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-271)**, in concurrence.)

(In House, May 17, 2005, **PASSED TO BE ENACTED**.)

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#139)

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

NAYS: Senators: None

ABSENT: Senator: MILLS

34 Senators having voted in the affirmative and No Senator having voted in the negative, with 1 Senator being absent, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

SENATE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Amend the Hospital Tax" S.P. 224 L.D. 687

Majority - **Ought Not to Pass** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-164)** (5 members)

Tabled - May 19, 2005, by Senator **BRENNAN** of Cumberland

Pending - motion by Senator **MAYO** of Sagadahoc to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report (Roll Call Ordered)

(In Senate, May 12, 2005 Reports **READ**.)

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#140)

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

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

ABSENT: Senator: MILLS

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

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/16/05) Assigned matter:

SENATE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Repeal the Tax on Private Nonmedical Institutions" (EMERGENCY)

S.P. 52 L.D. 146

Majority - **Ought Not to Pass** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-173)** (5 members)

Tabled - May 16, 2005, by Senator **MAYO** of Sagadahoc

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

(In Senate, May 16, 2005, Reports **READ**.)

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

Senator **ROSEN:** Thank you, Madame President, men and women of the Senate. The bill that is before you is a repeal of the gross receipts tax that was imposed on the private non-medical institutions in Maine, another component of the funding mechanism of choice over the last couple of years for our Medicaid program. This particular tax is a departure from the service provider taxes that were imposed on nursing facilities and on the hospitals. This was a particularly difficult and challenging tax for the Maine Revenue Service, the Health and Human Services Department, and the administration in general to develop and to impose because of the tremendous hurdles that the federal government has put in place to resist the development of something like this. If you recall, this particular tax required the repeal of the 5% sales tax on certain items, like rental of videos and telecommunications, and replaced it with a gross receipts tax, which is what this is, for the purposes of being able to lay it over the private non-medical institutions. Small facilities, and there are many of them throughout the state, in your district and mine. We had a lot of testimony during the hearing from people that are directly impacted by this tax and appealed to us to go forward with this bill and to repeal it. I would like to share with you just one organization, the Maine Association of Substance Abuse Programs. They were able to bring it to light in their testimony and share with us the kind of impact that this particular tax has on them. We've been hearing a lot about large financial burdens on large providers of medical services. These are the small folks. Included in their testimony they talk about, for instance, in my agency, the Maine General Health Reach, the amount of the PNMI tax loss impact would be \$16,900. Catholic Charities estimates a \$30,000 loss. Crossroads for Women in Portland, \$24,000 loss. Counseling services in Saco, \$83,000 loss. Day One in Portland, \$45,000. Phoenix Academy in Augusta, \$52,000. Milestone Foundation in Portland, \$60,000. I'm reading from their testimony. While these numbers may not appear substantial to those dealing with large budgets, the budgets of substance abuse agencies in Maine are small and without safe margins. We urge you to support the repeal of the 5% PNMI tax. Again, that is from the Maine Association of Substance Abuse Programs. I urge you to consider their appeal, reject the pending motion, and go on to adopt the bill.

On motion by Senator **ROSEN** of Hancock, 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 Sagadahoc, Senator Mayo.

Senator **MAYO:** Thank you, Madame President, ladies and gentlemen of the Senate. This is the last of these bills for a while, although I believe there is still one more out there that we will debate in a similar fashion. The good Senator from Hancock, Senator Rosen, is correct. I, too, have the same testimony that he read from. I would raise the same question this afternoon that I raised a few minutes ago. We are opening a hole in the General Fund budget if we pass this particular L.D. in the amount of \$18,500,000 over the two year period. That is what has been booked, rightly or wrongly. That is what has been booked for income in the upcoming biennium. In addition, we would be losing the federal funds that this generates. It is a sizable hole in the biannual budget. While some may argue that this is an unfair tax, and on a given day I might not necessarily completely disagree with them, this is not the way to address the issue. We have to look at it in a much broader picture. Later on in this session, before we adjourn on the 4th of July or Labor Day or whenever that lucky day will be, you will see a unanimous report coming across your desk from the Health and Human Services Committee dealing with the establishment of a committee to look at the entire picture and the future of MaineCare, and this is a part of it, whether we like it or whether we don't. It will look at the entire future of MaineCare and report back to the committee and then to this body. That would be the logical way to approach this issue, not to do it piece meal and open up the budget, which we passed in March. Thank you very much.

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

Senator **DOW:** Thank you, Madame President, ladies and gentlemen of the Chamber. I look forward to that committee and the report that is issued from it. In my short stay in the Senate it always seems appropriate to raise a tax but for some reason it's always imprudent to take a tax decrease. I guess that's my observation for today.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Sagadahoc, Senator Mayo 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 (#141)

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

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

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **MAYO** of Sagadahoc to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/16/05) Assigned matter:

Bill "An Act To Expand the Maine Economic Improvement Fund"
H.P. 38 L.D. 42
(C "A" H-281)

Tabled - May 16, 2005, by Senator **ROTUNDO** of Androscoggin

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-281)**, in concurrence

(In House, May 11, 2005, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-281)**.)

(In Senate, May 16, 2005, **READ A SECOND TIME**.)

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

Senator **NASS:** Thank you, Madame President, men and women of the Senate. Just a quick reminder. I think we've had some discussion about this bill. This is one of the so-called R and D accounts that has been very successful, but that is not what we are talking about today. We are considering an expansion. Using General Fund money in expansion of this fund. This fund was created in 1997 or 1998 with half a million dollars and has been expanding at a fairly regular level. In the upcoming biennium it will be producing for the University about \$12.2 million a year. This proposal originally was an additional \$2 million per year for this fund. It has been reduced in the amendment to \$1 million. I just think we've got a lot of demands on our resources out there. Now is not the time to be necessarily pumping more money into this. It is certainly a useful purpose, but we have better uses, in my opinion, for the money. Thank you, Madame President.

THE PRESIDENT: The pending question before the Senate is Passage to be Engrossed as Amended. 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 (#142)

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

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

22 Senators having voted in the affirmative and 13 Senators having voted in the negative, was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-281)**, in concurrence.

The Chair laid before the Senate the following Tabled and Later (5/11/05) Assigned matter:

HOUSE REPORTS -from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Increase County Filing Fees"
H.P. 745 L.D. 1092

Report "A" - **Ought to Pass** (8 members)

Report "B" - **Ought to Pass as Amended by Committee Amendment "A" (H-268)** (4 members)

Report "C" - **Ought to Pass as Amended by Committee Amendment "B" (H-269)** (1 member)

Tabled - May 11, 2005, by Senator **SCHNEIDER** of Penobscot

Pending - motion by same Senator to **ACCEPT** Report "A", **OUGHT TO PASS**, in concurrence

(In House, May 10, 2005, Report "A", **OUGHT TO PASS READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

(In Senate, May 11, 2005, Reports **READ**.)

On motion by Senator **SCHNEIDER** of Penobscot, Report "A", **OUGHT TO PASS ACCEPTED**, in concurrence

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (5/11/05) Assigned matter:

LEGISLATIVE RECORD - SENATE, THURSDAY, MAY 19, 2005

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Exempt Military Pensions for Future Military Retirees from State Income Tax"

H.P. 682 L.D. 972

Majority - **Ought Not to Pass** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-191)** (5 members)

Tabled - May 11, 2005, by Senator **PERRY** of Penobscot

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**

(In House, May 10, 2005, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-191).**)

(In Senate, May 11, 2005, Reports **READ.**)

Senator **PERRY** of Penobscot requested and received leave of the Senate to withdraw his motion to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE.**

On further motion by same Senator, the Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-191) **READ.**

On motion by Senator **PERRY** of Penobscot, Senate Amendment "A" (S-214) to Committee Amendment "A" (H-191) **READ.**

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

Senator **PERRY:** Thank you, Madame President, ladies and gentlemen of the Senate. I'd just like to take a moment to explain my amendment. This bill exempts from state taxation any military pension income after January 1, 2006. That was the original bill. My amendment seeks to exempt all military retirement pensions. That is the amendment and I would urge the adoption of it. Thank you.

On motion by Senator **PERRY** of Penobscot, Senate Amendment "A" (S-214) to Committee Amendment "A" (H-191) **ADOPTED.**

Committee Amendment "A" (H-191) as Amended by Senate Amendment "A" (S-214) 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:

HOUSE REPORTS - from the Committee on **TAXATION** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Facilitate the Repeal of the Taxation of Personal Property Valued at \$1,000 or More

H.P. 52 L.D. 56

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-297)** (3 members)

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

Pending - motion by Senator **PERRY** of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence (Roll Call Requested)

(In House, May 10, 2005, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED.**)

(In Senate, May 10, 2005, Reports **READ.** On motion by Senator **PERRY** of Penobscot, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence. On motion by Senator **GAGNON** of Kennebec, **RECONSIDERED.**)

On motion by Senator **PERRY** of Penobscot, Bill and accompanying papers **COMMITTED** to the Committee on **TAXATION**, in **NON-CONCURRENCE.**

Sent down for concurrence.

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

SENATE REPORTS - from the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Resolve, Directing the Plumbers' Examining Board To Adopt the International Plumbing Code

S.P. 373 L.D. 1056

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-131)** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-132)** (6 members)

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

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-132)** Report

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

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

Senator **SULLIVAN:** Thank you, Madame President, men and women of the Senate. I would ask you to consider rejecting the minority report and going on to pass the majority report. This is a

bill that was asked for by my municipality of Biddeford, supported by Kennebunk, Kennebunkport, and Arundel, which are the four communities that I represent, to ask that we adopt a state code, the International Plumbing Code. It's part of a family. It's part of what we had used last year on the Business, Research, and Economic Development Committee as a building code. It's a family.

There has been, or will be passed out to you shortly, a map that shows states in blue and pale pink and a little pink. The blue states are the states that use the I-codes. If you notice, it is almost all of the northeast. This is a code that allows portability. We talk about portability, the mobility of our citizens to move from state to state, and it seems to me that Maine businesses like to really have things conformed. This side of the United States conforms except Maine is in the pink. It has a state written code. We also believe that if you have a uniform code for the entire state it does make it cheaper in the long run. This is up to debate because some people will say no it doesn't and some people will say yes that it does. We did use that debate. Those people that say that is not true for plumbing will tell you it's true for housing. I maintain that if you have the same code and if it costs less to build it should cost less to plumb a house out if you are using the same code. If you use one debate, one argument in one debate, but you don't use it in the next, that doesn't make a lot of sense. I would ask you to think about this. Think about your municipalities and your code enforcement officers. They are the ones who go out and decide if the plumbing is done correctly and if the drainage is done correctly. Your communities have hired them. Your tax dollars pay for them. They ought to be able to be listened to in what we need for plumbing code. I would ask you to consider using that. I would also remind you that the Maine State Housing Authority uses the I-code also. For our own housing, we use the I-code. It seems to me that if it's good enough for our Maine State Housing it's good enough for the state and for it to be the state code. I would ask you to consider this. I can count heads. I know that it is not going to be an easily won battle, in deed it is won at all. I've done what my municipalities have asked me to do and put this forward. I hope you've had a chance to talk to your code people before you vote on this. 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. In my career as a legislator there are three debates that people are pretty much chosen up sides on. One is choice. One is civil rights. The other is plumbing. I'm going to give you a little background as to why we are here and a path to a solution so we won't have to ever be here again.

In the 119th legislature, the legislature asked the plumber's examining board to adopt a new code. We currently use a version of the new codes. I think they are referred to as Chapter 13. I have learned more about plumbing since this hearing than I ever wanted to know. It is sorely in need of updating. There is no disagreement about that. There was a process to report back to us and there were people that though that process wasn't inclusive enough. They made it a major substantive rule, meaning whatever the board did they couldn't adopt it without coming to the legislature for our approval. This is the only board that has major substantive rules for adoption of codes. All of the other boards, and you'll see them listed on one of your handouts, we allow the adoption of codes to be done by those that know the

codes. In the committee, we heard compelling arguments from the UPC side that their code was safer. We heard compelling arguments from the IPC side that their code was safer. We heard compelling arguments on the UPC side that their code cost less. We heard equally compelling arguments that the other code cost less. Then we heard arguments that said it really was a wash. They are both absolutely safe and there is no particular cost differential for either code. You might ask, why are we here? The argument has been framed as the plumbers versus the code officials. It isn't exactly that. As you see on one of your handouts, the plumbing board and the Department of Professional Financial Regulation and the plumbers are on the side of the U-codes. Some of the code officials, about 180 of the 300 code officials, are on the other side. It isn't all of the code officials that are on the other side. The Department of Licensing and Financial Regulation, the Maine Association of Plumbing, Heating, Cooling Contractors, and the Maine Code Administrators Association are all people who favor the U-codes. Mid-Maine Code Inspectors, Maine Oil Dealers Association, National Fire Protection Association, Plumbers Examining Board, State of Maine Plumbing Inspectors, the State Fire Marshall's Office, and this one was very important to the minority of the members of the committee, the instructors from the Maine Community College System Plumbing Course prefer, unanimously, the UPC code. I asked my husband, who was near the plumbing trade in his profession, to help me understand this. If it isn't about safety and it isn't about cost, then what is it really about? He tells me his wisdom is that it's like baseball. When they say it's not about the money, it's about the money. What we understand is that on the I-code side there is more cost in books, manuals, and training. We've been asked if there should be a fiscal note on this bill if we change the codes to the I-codes? The State Planning Office will have to mandate training. They will have to retrain the Plumbing Board, the Licensed Plumbing Inspectors, and code officials. There is cost for training and there cost for manuals. I think what I'll leave you with, if you're not already sort of tired of the debate and thinking, 'Why am I deciding which code?', what the minority report does is it doesn't chose the code because I don't think it's our job to chose the code. I think it's our job to respect the Plumbing Board, to make these routine technical rules, and send this back to the Plumbing Board like we do with all those other boards that you see on your sheet, and say, 'Please adopt a code, please adopt the code that makes sense. You deal with the codes.' I would ask you to join with me in supporting the minority Ought to Pass as Amended report. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Gagnon to Accept the Minority Ought to Pass as Amended Report.

The Chair ordered a Division.

On motion by Senator **SULLIVAN** of York, 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 (#143)

YEAS: Senators: BARTLETT, BRENNAN, BROMLEY, BRYANT, CLUKEY, DAMON, DAVIS, GAGNON, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, STRIMLING, WESTON, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, COURTNEY, COWGER, DIAMOND, DOW, HASTINGS, HOBBS, MILLS, NASS, SNOWE-MELLO, SULLIVAN, TURNER, WOODCOCK

22 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator **GAGNON** of Kennebec to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-132)** Report, **PREVAILED.**

READ ONCE.

Committee Amendment "B" (S-132) **READ** and **ADOPTED.**

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (4/13/05) Assigned matter:

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Provide Tax Incentives to Small Businesses That Employ At Least One Person"

H.P. 446 L.D. 613

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-109)** (7 members)

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

Tabled - April 13, 2005, by Senator **PERRY** of Penobscot

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, April 12, 2005, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-109).**)

(In Senate, April 13, 2005, Reports **READ.**)

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

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

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. I just wanted to speak on this bill for a

second before we pass it. I think maybe there is a little bit of confusion as to it being a pro-business and pro-Maine economy bill. If you have a second, look at the bill and the fiscal note and look at how much it costs to provide tax incentives for businesses that employ at least one person and you'll see that it does nothing. I don't have any problem with passing it. If you look at it, it costs the state \$15,000 for the new position. It costs the state \$25,000 this year and \$66,000 next year. That's really not going to do a whole lot to improve the economic climate of this state, but it feels real good. I'd be glad to go along with it. It sounds good. Thank you for letting me go on the record.

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

Senator **STRIMLING:** Thank you, Madame President. There's nothing wrong with feeling good, I might say. Nothing wrong with it at all.

I just want to say that while I recognize the fiscal note on this is small that is because we're trying to help some of the smallest businesses in this state. While I realize that perhaps it's not all the relief that we would like to be sending out there, an extra \$500 check to a lot of businesses would have an impact. I would say the ETIF program is one of the best programs in the state in terms of trying to create jobs. You all know the way the ETIF program works is you make a capital investment in your business, you show that you are going to be expanding and adding more jobs, and the state gives you a tax break for those new jobs. This is a very successful program for larger businesses. It originally was for 10 employees or more. We then brought it down to 5 employees or more. Now we're going to be bringing it down to one employee or more. It's simple. It's small. I agree, it's not going to revolutionize the state, but it's a little extra to be able to give some small businesses some help. I do also want to mention that, if the bill passes as written, I will be offering an amendment that is going to make it so that even though it is one employee, if you are more than a 50% owner of that business you will not be eligible for the ETIF. There was some conversation about not wanting somebody to get this TIF off the state if they were the owner of the business themselves. This is for job expansion and new folks coming in. I strongly encourage my colleagues to vote for the majority report.

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

Senator **COURTNEY:** Thank you, Madame President. I really don't plan on debating this all day, but I just think everybody ought to know about this. When DED came over and said they don't want this it kind of made you scratch your head. I guess part of it is that the Department of Economic Development makes the determination on some of the requirements. Some of the determinations that they have to do is the economic development described will not go forward without approval. The program will make a contribution for the well being of the state. What I think happens is that you are going to give these businesses \$500 to expand but they need to provide an economic plan that shows that they can survive. I think probably the Department of Economic Development is going to determine that they wouldn't get involved in this funding anyways. It's a good feeling bill and let's pass it.

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

READ ONCE.

Committee Amendment "A" (H-109) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME.**
On motion by Senator **STRIMLING** of Cumberland, Senate Amendment "B" (S-191) to **READ** and **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-109) AND SENATE AMENDMENT "B" (S-191), in NON-CONCURRENCE.

Sent down for concurrence.

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

The Chair laid before the Senate the following Tabled and Later (5/18/05) Assigned matter:

HOUSE REPORTS - from the Committee on **TRANSPORTATION** on Bill "An Act To Prohibit the Issuance of a Driver's License to an Undocumented Illegal Alien"
H.P. 540 L.D. 763

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-368)** (6 members)

Tabled - May 18, 2005, by Senator **DAMON** of Hancock

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**

(In House, May 18, 2005, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-368).**)

(In Senate, May 18, 2005, Reports **READ.**)

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

Senator **DAMON:** Thank you, Madame President, ladies and gentlemen of the Senate. I would rise to tell you that I wish you would support the pending motion because the amended bill, as it is presented, does nothing to either prevent illegal aliens from obtaining licenses or to even inhibit the practice. It certainly does nothing to make the country safer. There is no credible evidence that restricting a driver's license will reduce terrorism. Might I remind you that 4 of the 19 September 11th hijackers were in

this country illegally. They would not be able to legally obtain a Maine driver's license under the proposed legislation. Of course any form of I.D. can be counterfeited and individuals capable of carrying out heinous crimes can obtain fraudulent I.D. This particular bill before us will not prevent that. I would urge you to support the pending motion of Ought Not to Pass. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Savage.

Senator **SAVAGE:** Thank you, Madame President, men and women of the Senate. There is a profound difference between individuals who legally apply for admission into the U.S. and fulfill all requirements and those who enter the U.S. or intentionally over-stay their visa in violation of the law. Most of us are descendants of or are immigrants. In fact, the United States allows more immigration than any other country on earth. More than one million people a year. We are under no obligation to accept anyone who shows up in our country and then tried to obtain benefits intended only for citizens and others here legally. The driver's license is one of those benefits and is more important than ever to protect the integrity of our licenses when we consider the terrorist threat against our country. Let us not forget that two of the September 11th terrorists boarded a plane in Portland, Maine. Between them, the 19 terrorists had more than 30 driver's licenses and 9 of them were actually registered to vote thanks to the motor voter system. It is our obligation, as legislators, to ensure that illegal aliens cannot board a plane to create harm to American citizens. In the U.S. the driver's license is our de facto universal identification card used as I.D. when applying for bank accounts; renting a home; using a check for a purchase; renting vehicles; purchasing transportation tickets, including bus tickets, train tickets, and airline tickets; as well as the purchase of alcoholic beverages for those who may look younger and be mistaken for a minor. In conclusion, the 9/11 commission report, page 390, of August 2004 stated that at many entry points to vulnerable facilities, including gates for boarding aircraft, sources of identification are the last opportunity to ensure that people are who they say they are and to check whether they are terrorists.

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 Cumberland, Senator Diamond.

Senator **DIAMOND:** Thank you, Madame President, men and women of the Senate. This bill really does not do too much. Essentially, this is what it does. Currently, the Secretary of State's Office has to, and has been for a long time, use the Social Security number as evidence of eligibility for a license. On some occasions that is not possible, so the standard operating procedure has always been, at least for the last 20 years, that if the person is not eligible for a Social Security number all they have to do is prove that. Essentially, what this amendment has done is codified existing procedure at the Secretary of State's Office. It really doesn't do much, but it's okay to vote for it because you are not going to change anything. Beyond that, you should know that Congress has passed, and I'm told it has been signed today or yesterday, federal legislation that requires a whole set of new regulations for driver's licenses and the State of

Maine and other states will have three years to meet those requirements. If we don't, State of Maine licenses will not be allowed to be used for federal purposes such as boarding airplanes and such. This will, with the committee amendment, simply codify existing procedures. I don't have any problem voting for it. By voting against it you're not doing any harm either. No harm done either way. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Savage.

Senator **SAVAGE:** Thank you, Madame President. It's true what the Senator from Cumberland, Senator Diamond, said. I would just say that we would be one up on the federal law to require Social Security numbers or written proof that the Secretary of State must have on file if you cannot produce a Social Security number for that license.

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

Senator **NASS:** Thank you, Madame President, men and women of the Senate. I'd like to ask a question through the Chair to the Senator from Cumberland, Senator Diamond.

THE PRESIDENT: The Senator may pose his question.

Senator **NASS:** Thank you, Madame President. I think, not this past April but maybe a year or a year and a half ago, the Maine Administration issued an Executive Order about the issuance of driver's licenses that seemed to be at odds with what I understood the federal government was interested in at the time. This was before all the recent activity. My question, hopefully to the Senator from Cumberland, Senator Diamond, who has vast experience in this area, is what was that all about in relation to what's been happening today? It is my understanding that Maine's motor vehicle people were told to issue driver's licenses to undocumented or illegal aliens. Perhaps I'm mistaken. Thank you.

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

Senator **DIAMOND:** Thank you, Madame President, men and women of the Senate. I really had nothing to do with that issue by the previous Secretary of the State. I think it was done during the very later part of his reign as Secretary of State. I do not know the reasons behind it. I do know this, the federal legislation that was passed and signed will overrule our existing policy that we have in the State of Maine through the Bureau of Motor Vehicles and the Secretary of State's Office. That policy will be much more stringent than what I believe was ordered by the previous Secretary of State. I'm well versed on that, so I shouldn't be speaking much about what he did.

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

Senator **STRIMLING:** Thank you, Madame President. The Senator from York is correct. There was an Executive Order that was signed by the Chief Executive a year ago dealing with this

issue. As many of you may recall, down in the City of Portland and surrounding communities there was rush of federal agents that came in and started harassing citizens of our state who were shopping in different ethnic stores. Some were going to get driver's licenses. A couple of citizens of the state were detained for 45 minutes. They were citizens. They were asked for passports. Who of us carries passports? They were people of color and immediately were suspected. Because of that the Chief Executive did sign an Executive Order to say they may not be taking race into account, among other things. I will add that the Chief Executive did sign another Executive Order about a month ago in order to re-address some of the concerns, some of the conflicts, in that order with the federal law. Some of those provisions that were problematic were taken out. I would strongly encourage my colleagues to vote this bill down. It is not necessary and it will do more damage because it has many people in our communities who are fearful of this kind of legislation, regardless of whether they know about the details or not, see this kind of legislation as continuing some of the anti-immigrant policies that have been going on around the country. I would strongly encourage my colleagues to vote it down since it does nothing anyways.

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

Senator **NASS:** Thank you, Madame President, men and women of the Senate. I know the federal legislation that has been talked about today is fairly new. It is my understanding that it won't be effective entirely for three years. It seems, as I understand it, we're still operating under the prior Secretary of State's provision or the current Administration's Executive Order that we issue driver's licenses, apparently for a while, to illegal aliens. I don't know. I guess I'm going to have to make a choice, Madame President, today between illegal aliens and harassing some of our citizens. It is a very difficult choice. As has been outlined today by the good Senator from Knox, Senator Savage, we don't have a great history of what's been happening here locally recently about the use of these driver's licenses. It is my intention, Madame President, to vote against the pending motion. I hope others will join me based on what we know might happen in this area. Thank you.

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

Senator **DAMON:** Thank you, Madame President, men and women of the Senate. We had an opportunity a couple of votes ago to vote on some feel good legislation. We may, indeed, have another opportunity now. This bill, as it is presented before you, does not do what it is that I think some of you think it does do. It does not protect us. It does not make us safer. I'll cite a couple of examples. Terrorism is on everybody's mind, not only in this chamber but in this country, given this climate of this in our history. The most heinous act of terrorism prior to 9/11 was perpetrated against citizens of this country by citizens of this country. The people who perpetrated the Oklahoma City bombing did have valid licenses and would have been able to get valid licenses in Maine if this law were in effect. Also Ali Mohamed, who wrote Al Qaeda terrorism handbook on how to operate in the west, is a naturalized U.S. citizen and he would not have been prevented from getting a Maine driver's license if we

enacted this particular legislation. Measures like L.D. 763 may actually create a false sense of security among us. A feel good, if you will. Also, by doing that, they may make us less safe when we think they are making us safer. I would stick by my previous plea and urge you to vote for the pending motion. Thank you, Madame President.

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

Senator **WESTON:** Thank you, Madame President, men and women of the Senate. I don't want to make this any more controversial than it is but I can't help but having a feeling of déjà vu. Listening to some of these arguments brings back to the fingerprinting debate. Do you remember them? Fingerprinting teachers. Do you remember that we talked about this false sense of security? One of the things I remember saying on the floor of the other chamber was that this was not going to offer any kind of guarantee to parents, that, indeed, nothing would happen to their child. It would guarantee them that the person teaching their child didn't already have a record. I guess that is what I see in this bill. Indeed, as much as possible, we're going to say that if you come to our office of Motor Vehicle and you ask for a driver's license, you are going to have to give a valid Social Security number. That's how I read the bill. If it is different than that, I wish to be corrected. That one step, alone, I think is indeed just that. One step, but I see nothing wrong with asking someone to prove that they are a citizen before they are given a driver's license. I don't expect any more than that. I would support it as I see it written. Thank you.

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

Senator **MARTIN:** Thank you, Madame President and members of the Senate. I am sitting here thinking about another issue. It is clear that many have been away from home too long. We need to go home and talk to the 17, 18, and 19 year olds and see the fake driver's licenses that they have for the purchase of liquor and where they get them. We have sources in this state that actually advertise. Until we develop a bar code or something and run them through a computer system, I think we are kidding ourselves. They have a great market. You can buy them for about \$100. I don't know who we are kidding. It is not going to be those that are really legal that will be doing that. If someone wants to go get one, it's pretty easy now. They even developed the bar code that they have now behind the license. It's amazing. The reason I know that is because I just happened to be in a store when someone came in to purchase. I was concerned because I happened to be an owner of the store. The person was going to be purchasing illegally. I called the mother, since I knew who that was, and asked the date of birth. Surprise. The kid was 20. There it is. We're just kidding ourselves here. It's worse than feel good, I think. I think that we need to develop another system and perhaps develop something like with the \$20 bill. It has that thing on it that they haven't figured out a way to counterfeit it. They will figure out a way, those who really want to get in that business. I just say, if you want to vote for it, vote for it. If you want to vote against it, vote against it. Doesn't make a bit of difference.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Hancock, Senator Damon 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 (#144)

YEAS: Senators: BARTLETT, BRENNAN, BROMLEY, DAMON, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, ROTUNDO, STRIMLING, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, BRYANT, CLUKEY, COURTNEY, COWGER, DAVIS, DIAMOND, DOW, HASTINGS, MILLS, NASS, PERRY, PLOWMAN, RAYE, ROSEN, SAVAGE, SCHNEIDER, SNOW-MELLO, SULLIVAN, TURNER, WESTON, WOODCOCK

ABSENT: Senator: NUTTING

12 Senators having voted in the affirmative and 22 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **DAMON** of Hancock to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**, **FAILED**.

The Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-368) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled Unassigned matter:

SENATE REPORTS - from the Committee on **LABOR** on Bill "An Act To Provide an Annual Cost-of-living Adjustment for Persons Receiving Workers' Compensation Benefits for Total Incapacity" S.P. 501 L.D. 1476

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-176)** (8 members)

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

Tabled - May 16, 2005, by Senator **STRIMLING** of Cumberland

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

(In Senate, May 16, 2005, Reports **READ**.)

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 stand here today opposed to L.D. 1476. If you had noticed I had abstained on the original report because my husband does collect Workers' Comp. He gets only partial Workers' Compensation, so I believe that I can debate and vote on this.

I am concerned, even though I do understand that when you are on Workers' Comp you are living on very limited resources. I am very concerned that this is a benefit that will increase and add cost to the system, \$2 million to \$10 million, according to the NCCI. Premiums will rise from 5% to 3%. Only eight states in the country allow similar COLA for employees receiving total incapacity benefits. New Hampshire allows COLA for employees receiving permanent total disability, but they pay for it by allowing just 262 weeks of incapacity benefits compared to Maine's 364 weeks or lifetime if P1 exceeds 13.2%. The bill will increase litigations by driving employees to prove entitlement to total benefits rather than 100% partial benefits under Section 213. Actuarial and technical solutions rank Maine 6th highest, or most expensive, in terms of wage replacement benefits per case and 18th highest in terms of the cost of insurance. I ask you, please, not to support this bill. Thank you very much.

On motion by Senator **WESTON** of Waldo, 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 Cumberland, Senator Strimling.

Senator **STRIMLING:** Thank you, Madame President. Briefly, I would say that I strongly encourage my colleagues to accept the majority Ought to Pass report. What we are talking about are folks who are permanently incapacitated and trying to give them a cost of living increase. We had testimony in front of us about people who were incapacitated 15 or 20 years ago and are still getting a \$200 a week paycheck. They are expected to survive on that. We realize we couldn't deal with every situation in the past, but we could try to do it moving forward. This really is just a basic bill, a human rights bill, as far as I'm concerned, to make sure that we take care of our people. They have given to the state everything they can possibly give. They are completely incapacitated. It is as small a gesture as we can possibly do.

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

Senator **PLOWMAN:** Thank you, Madame President. May I pose a question through the Chair?

THE PRESIDENT: The Senator may pose her question.

Senator **PLOWMAN:** Thank you, Madame President. Is there no other way that an employee can ask for a cost of living increase rather than passing an across-the-board cost of living increase? Is there not a mechanism that's already in place?

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 Strimling.

Senator **STRIMLING:** Thank you, Madame President. I'm pretty sure there is not. The law is pretty clear. It goes through the Workers' Comp Board. They set the rate and then it goes from there. There is no provision for a cost of living increase for somebody who is permanently incapacitated.

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

Senator **PLOWMAN:** Thank you, Madame President. May I pose another question?

THE PRESIDENT: The Senator may pose her question.

Senator **PLOWMAN:** Thank you, Madame President. Doesn't the Workers' Comp Board take this up periodically and make adjustments based on formulas that I don't even appreciate or begin to understand? Does it not do it periodically?

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 Bartlett.

Senator **BARTLETT:** Thank you, Madame President. I'll try. I think what you are referring to is the average weekly wage. It is the minimum state average weekly wage that is adjusted periodically. In terms of your benefits, once your benefits are fixed at the date of injury, if it is total incapacity, it is my understanding is that there would not be any future cost of living increase. Even though the minimum state average weekly wage is going up, once your injury is fixed you are tied in with that minimum state average weekly wage. You don't get to move up to the higher average weekly wage that is implemented down the road. You are fixed.

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

Senator **PLOWMAN:** Thank you, Madame President. I have another question.

THE PRESIDENT: The Senator may pose her question.

Senator **PLOWMAN:** Thank you, Madame President. Are these people also on Social Security Disability based on their wages and that is not their only source of income that we're talking about when it comes to the Workers' Comp payments?

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 Bartlett.

Senator **BARTLETT:** Thank you, Madame President. This statute also has provisions dealing with offsets to deal with that situation. There is a provision to deal with the coordination of

benefits so that if you are receiving certain other kinds of benefits, depending on the specific benefit, your Workers' Comp may be reduced or the alternative disability benefit could be reduced. The statute deals with that issue of double dipping already.

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

Senator **PLOWMAN:** Thank you, Madame President. Now that I've asked my questions I'm going to address you as an employer. I want you to know the 3% to 5% increase is not the 3% to 5% increase on what I pay for the employee who was hurt. It's the 3% to 5% that I pay on my total premium. I understand, through our little discussion here the other day with other Senators, that there is not a lot of knowledge about what people pay per 100 for their employee. I spoke with someone who has an office. They pay about \$1 per \$100. I spoke with someone who is in the inn keeping business and he pays about \$3.40 per \$100. There are some people who happen to be in my kind of business where we pay \$17 per \$100. That is low compared with others. You multiply \$17 times the \$100 that I pay my employee and then you have my yearly average of about \$70,000. That has nothing to do with my safety record and has nothing to do with the benefits. You are upping the average cost of doing business in Maine and I know I've heard from the small business group that we were not going to be hurting our businesses again this year. If these people have two incomes, one that does have a cost of living increase, the Social Security Disability, then I don't think it's fair to burden our employers right now with higher costs of doing business. Every day we hear what is going to be happening with employees in the State of Maine. Please don't continue to ratchet up our Workers' Comp 3% and 5% at a time. It hurts. It hurts our costs and it hurts our employees who do work safely and would like to have that money in their paychecks. 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. There is also a fiscal note. I'd like to read this to you. 'This legislation will increase costs to the state as an employer to provide an annual adjustment to the benefits paid to those injured employees whose incapacity for work resulting from injury is total. The amount cannot be determined exactly at this time, however estimates provided by the Division of Employee Health and Benefits indicates costs may range from \$35,000 to \$210,000. The actual cost to the state will depend on the number injured employees whose incapacity for work from the injury is total.' Once again, I ask you, as I've asked you other times, I don't believe Maine can afford this. Thank you.

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 (#145)

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

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

ABSENT: Senator: NUTTING

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **STRIMLING** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-176) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

On motion by Senator Davis of Piscataquis, **ADJOURNED**, to Friday, May 20, 2004, at 10:00 in the morning, in memory of and lasting tribute to our fallen law enforcement officers.