

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

Volume II

First Regular Session

May 28, 2009 – June 12, 2009

Second Regular Session

January 6, 2010 - March 23, 2010

Pages 609-1214

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE
SECOND REGULAR SESSION
24th Legislative Day
Monday, March 22, 2010

The House met according to adjournment and was called to order by the Speaker.

Prayer by Father Ronald Labarre, Biddeford (retired).
National Anthem by Leavitt Area High School Choir, Turner.
Pledge of Allegiance.
Doctor of the day, Carla Burkley, M.D., Auburn.

The Journal of Thursday, March 18, 2010 was read and approved.

SENATE PAPERS

Non-Concurrent Matter

Resolve, Regarding a Report on the Status of Federal Ship Ballast Water Discharge Rules

(H.P. 1194) (L.D. 1693)
(C. "A" H-652)

FINALLY PASSED in the House on March 11, 2010.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-652) AS AMENDED BY SENATE AMENDMENT "A" (S-436)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

COMMUNICATIONS

The Following Communication: (S.C. 712)

**MAINE SENATE
124TH MAINE LEGISLATURE
OFFICE OF THE SECRETARY**

March 18, 2010

Honorable Hannah M. Pingree
Speaker of the House
2 State House Station
Augusta, ME 04333-0002

Dear Speaker Pingree:

In accordance with 3 M.R.S.A. §158 and Joint Rule 506 of the 124th Maine Legislature, please be advised that the Senate today confirmed the following nominations:

Upon the recommendation of the Committee on Business, Research and Economic Development, the nomination of John A. Sevigny of Portland for appointment to the Finance Authority of Maine.

Upon the recommendation of the Committee on Business, Research and Economic Development, the nomination of Rosaire Pelletier of Madawaska for appointment to the Finance Authority of Maine.

Upon the recommendation of the Committee on Business, Research and Economic Development, the nomination of Shepard Lee of Cape Elizabeth for appointment to the Finance Authority of Maine.

Upon the recommendation of the Committee on Business, Research and Economic Development, the nomination of Evelyn Silver of Bangor for appointment to the Finance Authority of Maine.

Upon the recommendation of the Committee on Business, Research and Economic Development, the nomination of Reis Hagerman of Scarborough for appointment to the Finance Authority of Maine.

Upon the recommendation of the Committee on Business, Research and Economic Development, the nomination of Michael

M. Mahoney of Cape Elizabeth for reappointment to the Finance Authority of Maine.

Upon the recommendation of the Committee on Business, Research and Economic Development, the nomination of Richard J. Ezzy of Caribou for appointment to the Loring Development Authority of Maine.

Upon the recommendation of the Committee on Business, Research and Economic Development, the nomination of Thomas Clowes of Stockholm for appointment to the Loring Development Authority of Maine.

Upon the recommendation of the Committee on Business, Research and Economic Development, the nomination of Sarah Frost Doscinski of Temple for appointment to the Maine Rural Development Authority.

Upon the recommendation of the Committee on Business, Research and Economic Development, the nomination of Mark P. Samson of Auburn for appointment to the Maine State Housing Authority.

Upon the recommendation of the Committee on State and Local Government, the nomination of Rebecca A. Grant of Hallowell for appointment to the State Civil Service Appeals Board.

Upon the recommendation of the Committee on State and Local Government, the nomination of Tracy B. Bigney of Bangor for appointment to the State Civil Service Appeals Board.

Upon the recommendation of the Committee on State and Local Government, the nomination of Edward F. Gorham of Randolph for appointment to the State Civil Service Appeals Board.

Upon the recommendation of the Committee on State and Local Government, the nomination of Jane L. Gilbert of Augusta for appointment to the State Civil Service Appeals Board.

Upon the recommendation of the Committee on Transportation, the nomination of John E. Dority of Augusta for appointment to the Maine Turnpike Authority.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

REPORTS OF COMMITTEE

Ought to Pass Pursuant to Resolve

Representative PIEH for the **Joint Standing Committee on Agriculture, Conservation and Forestry** on Bill "An Act Pertaining to Sales Tax Exemptions for Products Purchased for Agricultural Use"

(H.P. 1304) (L.D. 1821)

Reporting **Ought to Pass** pursuant to Resolve 2009, chapter 25, section 3.

Report was **READ** and **ACCEPTED**. The Bill **READ ONCE** and was assigned for **SECOND READING** Tuesday, March 23, 2010.

Divided Report

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act To Reduce Income Tax to 4.5% and Remove Low-income Families from Taxation"

(S.P. 460) (L.D. 1279)

Signed:

Senators:

PERRY of Penobscot
BLISS of Cumberland

Representatives:

WATSON of Bath

BRYANT of Windham
FLEMINGS of Bar Harbor
CROCKETT of Augusta
PILON of Saco
VALENTINO of Saco
SIROIS of Turner

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-354)** on same Bill.

Signed:
Senator:
NASS of York

Representatives:
LANGLEY of Ellsworth
CHASE of Wells
KNIGHT of Livermore Falls

Came from the Senate with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.
READ.

Representative WATSON of Bath moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned.

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought Not to Pass** on Bill "An Act To Create the Children's Wireless Protection Act"
(H.P. 1207) (L.D. 1706)

Signed:
Senator:
MILLS of Somerset

Representatives:
PERRY of Calais
PETERSON of Rumford
JONES of Mount Vernon
SANBORN of Gorham
JOY of Crystal
CAMPBELL of Newfield
LEWIN of Eliot

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-741)** on same Bill.

Signed:
Senators:
BRANNIGAN of Cumberland
MARRACHÉ of Kennebec

Representatives:
STRANG BURGESS of Cumberland
STUCKEY of Portland
EVES of North Berwick

Representative SOCTOMAH of the Passamaquoddy Tribe - of the House - supports the Minority **Ought to Pass as Amended by Committee Amendment "A" (H-741)** Report.

READ.

On motion of Representative SANBORN of Gorham, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(S.P. 605) (L.D. 1598) Bill "An Act To Strengthen the Laws against Illegal 'Puppy Mill' Operators" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-419)**

(H.P. 1296) (L.D. 1812) Resolve, Regarding Legislative Review of Chapter 37: Voluntary Municipal Farm Support Program, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources (EMERGENCY) Committee on **TAXATION** reporting **Ought to Pass**

(H.P. 1298) (L.D. 1814) Bill "An Act To Implement Recommendations Concerning Domestic Violence and Parental Rights and Responsibilities" Committee on **JUDICIARY** reporting **Ought to Pass**

(H.P. 1084) (L.D. 1540) Bill "An Act To Amend the Tax Laws" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-754)**

(H.P. 1163) (L.D. 1635) Bill "An Act To Avoid Unnecessary Removal of Land from the Maine Tree Growth Tax Law Program" (EMERGENCY) Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-751)**

(H.P. 1186) (L.D. 1685) Bill "An Act To Clarify the Enforcement Role of the Mixed Martial Arts Authority of Maine" Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-753)**

(H.P. 1209) (L.D. 1708) Bill "An Act To Expand the Opportunity for Persons To Acquire Health Care Coverage under the State's 'Mini-COBRA' Program" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-747)**

(H.P. 1218) (L.D. 1717) Bill "An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses" (EMERGENCY) Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-745)**

(H.P. 1280) (L.D. 1792) Bill "An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Public Records Exceptions" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-750)**

There being no objections, the above items were ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

CONSENT CALENDAR

Second Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the Second Day:

(H.P. 1189) (L.D. 1688) Bill "An Act To Update the Laws Affecting the Department of Health and Human Services, Division of Licensing and Regulatory Services" (C. "A" H-744)

(H.P. 1277) (L.D. 1789) Bill "An Act Containing the Recommendations of the Criminal Law Advisory Commission" (C. "A" H-742)

(H.P. 1284) (L.D. 1796) Resolve, Regarding Legislative Review of Chapter 881: Fees; Chemical Use in Children's Products, a Major Substantive Rule of the Department of Environmental Protection (EMERGENCY) (C. "A" H-740)

No objections having been noted at the end of the Second Legislative Day, the House Papers were **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

Representative SYKES of Harrison assumed the Chair.
The House was called to order by the Speaker Pro Tem.

ENACTORS
Emergency Measure

An Act To Conform the Maine Tax Laws for 2009 to the United States Internal Revenue Code

(S.P. 578) (L.D. 1500)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 118 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

Emergency Measure

An Act To Facilitate Voting by Uniformed Service and Overseas Voters

(H.P. 1117) (L.D. 1579)

(C. "A" H-689)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 119 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

Emergency Measure

An Act To Protect Retirement Income

(S.P. 683) (L.D. 1776)

(C. "A" S-405)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 109 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

Emergency Measure

An Act To Provide for Legislative Review of Recently Proposed Revisions to Certain Rules Adopted Pursuant to the Site Location of Development Laws and the Storm Water Management Laws

(S.P. 698) (L.D. 1787)

(C. "A" S-403)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 111 voted in favor of the same and

1 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

Emergency Measure

An Act To Facilitate Communication between the Department of Administrative and Financial Services, Bureau of Revenue Services and the Department of Conservation, Bureau of Forestry

(S.P. 718) (L.D. 1809)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 115 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

Emergency Measure

An Act To Clarify the Construction Subcontractor Status of the Maine Workers' Compensation Act of 1992

(H.P. 1299) (L.D. 1815)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

Representative CUSHING of Hampden **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is Passage to be Enacted. All those in favor will vote yes, those opposed will vote no.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken.

ROLL CALL NO. 295

YEA - Adams, Austin, Ayotte, Beaudette, Beaudoin, Beaulieu, Beck, Berry, Bickford, Blanchard, Blodgett, Boland, Bolduc, Briggs, Browne W, Bryant, Burns, Cain, Campbell, Carey, Casavant, Cebra, Celli, Chase, Clark H, Cleary, Cohen, Cornell du Houx, Cotta, Crafts, Cray, Crockett J, Crockett P, Curtis, Cushing, Davis, Dill, Dostie, Driscoll, Duchesne, Eaton, Eberle, Edgecomb, Eves, Finch, Fitts, Flemings, Fletcher, Flood, Fossil, Gifford, Gilbert, Giles, Goode, Greeley, Hamper, Hanley, Harlow, Harvell, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Johnson, Jones, Joy, Kaenrath, Knapp, Knight, Kruger, Lajoie, Langley, Legg, Lewin, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McCabe, McFadden, McKane, McLeod, Miller, Morrison, Nass, Nelson, Nutting, O'Brien, Percy, Peterson, Pieh, Pilon, Pinkham, Piotti, Plummer, Prescott, Priest, Rankin, Richardson D, Richardson W, Robinson, Rosen, Russell, Sanborn, Sarty, Saviello, Schatz, Shaw, Sirois, Smith, Stevens, Strang Burgess, Sykes, Tardy, Theriault, Thibodeau, Thomas, Tilton, Treat, Trinward, Valentino, Van Wie, Wagner J, Wagner R, Watson, Weaver, Webster, Welsh, Wheeler, Wright, Madam Speaker.

NAY - NONE.

ABSENT - Butterfield, Clark T, Connor, Flaherty, Kent, Millett, Pendleton, Peoples, Perry, Pratt, Rotundo, Stuckey, Sutherland, Tuttle, Willette.

Yes, 136; No, 0; Absent, 15; Excused, 0.

136 having voted in the affirmative and 0 voted in the negative, with 15 being absent, and accordingly the Bill was

PASSED TO BE ENACTED, signed by the Speaker Pro Tem and sent to the Senate.

Emergency Measure

Resolve, To Implement the Recommendations of the Juvenile Justice Task Force

(H.P. 1204) (L.D. 1703)
(C. "A" H-708)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative PIOTTI of Unity, **TABLED** pending **FINAL PASSAGE** and later today assigned.

Emergency Measure

Resolve, Regarding Legislative Review of Chapter 285: Adjustment of Non-bank Mortgage Lender Fees To Fund Investigative and Legal Compliance Personnel, a Major Substantive Rule of the Department of Professional and Financial Regulation

(H.P. 1258) (L.D. 1768)
(C. "A" H-710)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 122 voted in favor of the same and 8 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker Pro Tem and sent to the Senate.

The Speaker resumed the Chair.
The House was called to order by the Speaker.

Acts

An Act To Strengthen the Job Creation Through Educational Opportunity Program

(H.P. 899) (L.D. 1296)
(C. "A" H-703)

An Act To Correct Errors and Inconsistencies in Marine Resources Laws

(H.P. 1104) (L.D. 1567)
(C. "A" H-707)

An Act To Improve Access to Data in the Central Voter Registration System

(H.P. 1155) (L.D. 1627)
(H. "A" H-687 to C. "A" H-656)

An Act To Improve the Seed Capital Investment Tax Credit Program

(S.P. 631) (L.D. 1666)
(C. "A" S-404)

An Act To Amend the Electric Utility Industry Laws as They Relate to Renewable Resources

(S.P. 654) (L.D. 1682)
(S. "A" S-414 to C. "A" S-372)

An Act To Strengthen Protection from Abuse and Protection from Harassment Laws

(H.P. 1223) (L.D. 1722)
(C. "A" H-705)

An Act To Amend the Charter of the Kennebec Water District

(S.P. 690) (L.D. 1783)
(C. "A" S-413)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Resolves

Resolve, Directing the Right To Know Advisory Committee To Examine Issues Related to Communications of Members of Public Bodies

(H.P. 1093) (L.D. 1551)
(C. "A" H-704)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

An Act To Improve Maine's Air Quality and Reduce Regional Haze at Acadia National Park and Other Federally Designated Class I Areas

(S.P. 627) (L.D. 1662)
(C. "A" S-402)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative TARDY of Newport, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

On motion of Representative PIOTTI of Unity, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned. (Roll Call Ordered)

An Act To Reduce Noise Caused by Motorcycles and Improve Public Health

(S.P. 647) (L.D. 1675)
(C. "A" S-415)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative TARDY of Newport, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

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

ROLL CALL NO. 296

YEA - Adams, Ayotte, Beaudette, Beaudoin, Beaulieu, Beck, Berry, Bickford, Blanchard, Blodgett, Boland, Bolduc, Briggs, Browne W, Bryant, Burns, Cain, Carey, Casavant, Cebra, Celli, Cleary, Cohen, Cotta, Crockett P, Dill, Dostie, Duchesne, Eaton, Eberle, Eves, Finch, Flemings, Fletcher, Flood, Fossel, Gilbert, Giles, Goode, Hanley, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Jones, Kaenrath, Knapp, Kruger, Lajoie, Langley, Legg, Lovejoy, MacDonald, Magnan, Martin JR, Mazurek, McCabe, McKane, McLeod, Miller, Millett, Morrison, Nass, Nelson, O'Brien, Percy, Pieh, Pilon, Piotti, Prescott, Priest, Rankin, Richardson D, Richardson W, Robinson, Rosen, Russell, Sanborn, Sarty, Schatz, Shaw, Sirois, Smith, Stevens, Strang Burgess, Sykes, Tardy, Tilton, Treat, Trinward, Valentino, Van Wie, Wagner J, Wagner R, Watson, Weaver, Webster, Welsh, Wheeler, Madam Speaker.

NAY - Austin, Campbell, Chase, Clark H, Clark T, Cornell du Houx, Crafts, Cray, Crockett J, Curtis, Cushing, Davis, Driscoll, Edgecomb, Fitts, Gifford, Greeley, Hamper, Harvell, Johnson, Joy, Knight, Lewin, Martin JL, McFadden, Nutting, Peterson, Pinkham, Plummer, Saviello, Thibodeau, Thomas, Wright.

(S.P. 676) (L.D. 1762)
(C. "A" S-416)

ABSENT - Butterfield, Connor, Flaherty, Kent, Pendleton, Peoples, Perry, Pratt, Rotundo, Stuckey, Sutherland, Theriault, Tuttle, Willette.

Yes, 104; No, 33; Absent, 14; Excused, 0.

104 having voted in the affirmative and 33 voted in the negative, with 14 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Resolve, Concerning the Proper Disposal of Motor Fuels Containing Ethanol

(S.P. 674) (L.D. 1760)
(C. "A" S-410)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative JOY of Crystal, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **FINAL PASSAGE**.

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

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

ROLL CALL NO. 297

YEA - Adams, Austin, Ayotte, Beaudette, Beaudoin, Beaulieu, Beck, Berry, Blanchard, Blodgett, Boland, Bolduc, Briggs, Browne W, Bryant, Cain, Campbell, Carey, Casavant, Cebra, Celli, Chase, Clark H, Clark T, Cleary, Cohen, Cornell du Houx, Cotta, Cray, Crockett J, Crockett P, Curtis, Cushing, Davis, Dill, Dostie, Driscoll, Duchesne, Eaton, Eberle, Edgecomb, Eves, Finch, Fitts, Flemings, Fletcher, Flood, Fossel, Gilbert, Giles, Goode, Greeley, Hamper, Hanley, Harlow, Harvell, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Johnson, Jones, Kaenrath, Knapp, Knight, Kruger, Lajoie, Langley, Legg, Lewin, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McCabe, McFadden, McKane, McLeod, Miller, Millett, Morrison, Nass, Nelson, Nutting, O'Brien, Percy, Peterson, Pieh, Pilon, Piotti, Plummer, Prescott, Priest, Rankin, Richardson D, Richardson W, Robinson, Rosen, Russell, Sanborn, Sarty, Saviello, Schatz, Shaw, Sirois, Smith, Stevens, Strang Burgess, Sykes, Tardy, Theriault, Thibodeau, Tilton, Treat, Trinward, Valentino, Van Wie, Wagner J, Wagner R, Watson, Weaver, Webster, Welsh, Wheeler, Wright, Madam Speaker.

NAY - Burns, Crafts, Gifford, Joy, Pinkham, Thomas.

ABSENT - Bickford, Butterfield, Connor, Flaherty, Kent, Pendleton, Peoples, Perry, Pratt, Rotundo, Stuckey, Sutherland, Tuttle, Willette.

Yes, 131; No, 6; Absent, 14; Excused, 0.

131 having voted in the affirmative and 6 voted in the negative, with 14 being absent, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Resolve, Regarding Energy Conservation through Voltage Regulation

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative JOY of Crystal, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **FINAL PASSAGE**.

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

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

ROLL CALL NO. 298

YEA - Adams, Austin, Ayotte, Beaudette, Beaudoin, Beaulieu, Beck, Berry, Bickford, Blanchard, Blodgett, Boland, Bolduc, Briggs, Browne W, Bryant, Burns, Cain, Campbell, Carey, Casavant, Cebra, Celli, Chase, Clark H, Clark T, Cleary, Cohen, Cornell du Houx, Cotta, Crafts, Cray, Crockett J, Crockett P, Curtis, Cushing, Davis, Dill, Dostie, Driscoll, Duchesne, Eaton, Eberle, Edgecomb, Eves, Finch, Fitts, Flaherty, Flemings, Fletcher, Flood, Fossel, Gifford, Gilbert, Giles, Goode, Greeley, Hamper, Hanley, Harlow, Harvell, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Johnson, Jones, Kaenrath, Knapp, Knight, Kruger, Lajoie, Langley, Legg, Lewin, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McCabe, McFadden, McKane, McLeod, Miller, Millett, Morrison, Nass, Nelson, Nutting, O'Brien, Percy, Peterson, Pieh, Pilon, Piotti, Plummer, Prescott, Priest, Rankin, Richardson D, Richardson W, Robinson, Rosen, Russell, Sanborn, Sarty, Saviello, Schatz, Shaw, Sirois, Smith, Stevens, Strang Burgess, Sykes, Tardy, Theriault, Thibodeau, Thomas, Tilton, Treat, Trinward, Valentino, Van Wie, Wagner J, Wagner R, Watson, Weaver, Webster, Welsh, Wheeler, Wright, Madam Speaker.

NAY - Joy, Pinkham.

ABSENT - Butterfield, Connor, Kent, Pendleton, Peoples, Perry, Pratt, Rotundo, Stuckey, Sutherland, Tuttle, Willette.

Yes, 137; No, 2; Absent, 12; Excused, 0.

137 having voted in the affirmative and 2 voted in the negative, with 12 being absent, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Resolve, To Continue Evaluating Climate Change Adaptation Options for the State

(S.P. 733) (L.D. 1818)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative PIOTTI of Unity, was **SET ASIDE**.

On further motion of the same Representative, **TABLED** pending **FINAL PASSAGE** and later today assigned.

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

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Thursday, March 18, 2010, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Bill "An Act To Strengthen Collection of Unredeemed Beverage Container Deposits" (EMERGENCY)

(H.P. 1263) (L.D. 1774)
(C. "A" H-717)

TABLED - March 17, 2010 (Till Later Today) by Representative BERRY of Bowdoinham.

PENDING - **PASSAGE TO BE ENGROSSED.**

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Giles.

Representative GILES: Thank you, Madam Speaker. I am just going to speak briefly on this. I will be supporting the pending motion; however, there was considerable debate and presentation in our committee that I just want to go on to the record with, that being that there was several wine distributors in the State of Maine that feel they are going to be adversely impacted by this legislation. I understand that the bottle bill is far-reaching, it is complex. I will not try to go through in my few minutes here and try to explain the whole thing, but it does put some added burden on to a small business group that I would highly recommend that our committee, in the 125th, take a very close look at this issue and try to resolve it for the wine distributors in this state. Thank you.

Subsequently, the Bill was **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

HOUSE DIVIDED REPORT - Majority (12) **Ought to Pass as Amended by Committee Amendment "A" (H-732)** - Minority (1) **Ought Not to Pass** - Committee on **JUDICIARY** on Bill "An Act To Amend the Rights and Liabilities of the Supervisory Physician of a Physician Assistant"

(H.P. 1112) (L.D. 1574)

TABLED - March 18, 2010 (Till Later Today) by Representative PRIEST of Brunswick.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

Subsequently, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-732)** was **READ** by the Clerk.

Representative PRIEST of Brunswick **PRESENTED House Amendment "A" (H-755)** to **Committee Amendment "A" (H-732)**, which was **READ** by the Clerk.

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

Representative PRIEST: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. This bill concerns the immunities of a physician who supervises a physician's assistant, who was on active service with the Maine National Guard. There were some concerns expressed by some about the breadth of the immunity granted. This amendment narrows that, the breadth of that immunity, and satisfies, as I understand it, the objections to those who were concerned about the bill. We've also run it by the National Guard and they still think that the bill is good for them and provides the immunity they need. Therefore, I would urge your Adoption of this House Amendment. Thank you.

Subsequently, **House Amendment "A" (H-755)** to **Committee Amendment "A" (H-732)** was **ADOPTED**.

Committee Amendment "A" (H-732) as **Amended by House Amendment "A" (H-755)** thereto was **ADOPTED**.

The Bill was assigned for **SECOND READING** Tuesday, March 23, 2010.

HOUSE DIVIDED REPORT - Majority (8) **Ought Not to Pass** - Minority (5) **Ought to Pass as Amended by Committee**

Amendment "A" (H-733) - Committee on **JUDICIARY** on Bill "An Act To Establish a Duty To Report Serious Injuries"

(H.P. 1235) (L.D. 1738)

TABLED - March 18, 2010 (Till Later Today) by Representative PRIEST of Brunswick.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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

Representative PRIEST: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. This bill is "An Act To Establish a Duty To Report Serious Injuries". It was given an Ought Not to Pass by 9 out of the 14 members of our committee, five members felt that it ought to be Ought to Pass as Amended by Committee Amendment "A". The bill will require any adult who observes a serious injury to immediately report it to law enforcement or to medical personnel.

This bill responds to the law court case of the estate of Joshua Cilley and Jennifer Lane, which was a 2009 law court case. The law court in that case found the following. It said the duty proposed by the estate stands in direct opposition to the principle that a person does not have an affirmative duty to warn another person in peril. Although Cilley's family did ask the Maine Legislature to enact a law imposing criminal sanctions and creating civil liability for persons who observed that another has received a serious injury and then fails to immediately report and request first aid for that person, the Legislature did not enact that law. So this bill has already been once before the Legislature, it's been rejected. This bill itself is a second bite at the apple.

In the Cilley case, the law court declined to impose bystander liability. It recognized that we impose a duty to later report an injury where there is a special legal relationship, such as a parent or a child or an employer and an employee, or where a dangerous situation was created by someone, such as a person who has injured another person while they were hunting. That person has a legal duty to give notice of the hunting injury to law enforcement. With a bystander witness, there is no special legal relationship, nor is there a dangerous situation created by the person with the duty to report the injury. This is simply a bystander.

The majority of the Judiciary Committee felt that the bill attempts to turn what is obviously a moral obligation to report a serious injury into a legal duty to report a serious injury. Creating a legal duty, however, has very serious problems. As the law court said, if such a liability could exist, it would be difficult if not impossible to fix any limit to it. What if a bystander claimed to not actually see a serious injury? What if the bystander was one of 50 people who observed a serious injury? What if the bystander was 50 to 100 feet or 500 feet away from the injury? Does that bystander have to report the injury or not? Quite often, the only way to resolve that would be to have a lawsuit involving all of those possible bystanders. Imposing a duty on a bystander to report a serious injury would involve almost every possible witness to a serious injury with a potential lawsuit. Actual witnesses would be very reluctant to come forward as they too could be involved in a lawsuit merely by observing the injury and being accused of failing to report it correctly.

We had testimony by the Maine Association of Insurance Companies, who told the committee that it would be expensive to provide insurance for such bystander witnesses because the cost of defending said suits would be huge given the enormous amount of new courses of action in parties. Moreover, the incredibly intensive effort to present extra testimony or with the extent of further harm in injury from such an action, a delay would be expensive and lengthy, thereby further clogging the court

system and delaying justice. So what you have, in essence, is a bill which tries to turn what is obviously a moral obligation into a legal duty. For over a thousand years, English and United States law, common law, has said we're not going to do that. We recognize there is a moral duty to do it, but we're not going to make it a legal duty because essentially making it a legal duty will discourage reporting, not encourage it and will complicate things immensely. Therefore, I urge you to support the Ought Not to Pass Report of the majority of the committee. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lee, Representative McLeod.

Representative **McLEOD**: Thank you, Madam Speaker. I rise in opposition to the pending motion, and I would request that when the vote is cast, yeas and nays, I ask for a roll call.

Representative McLEOD of Lee **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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

The SPEAKER: A roll call is in order. The Representative may proceed.

Representative **McLEOD**: I brought this bill forward for a constituent of mine who lost his 27 year old son in his arms in a hospital after receiving a gunshot wound to the abdomen. This is a very simple bill. It's a very serious bill. You might call it a humanitarian bill. The fact of the matter is that when this young man died, the lady friend that was with him had stood and smoked a cigarette and drank a beer while this young lad was bleeding, and the doctors admitted in the hospital that had he been brought in earlier, his chances of survival would have been that much greater. I look at it in the light that we have bills on the books to report an animal that is seriously wounded or injured and I think we should do no less for our fellow man. My bible reads that we are our brother's keeper. Thank you, Madam Speaker.

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

Representative **HASKELL**: Thank you, Madam Speaker. Pursuant to Rule 217 of the Joint Rules, I would request a ruling from the Chair whether this is properly before the body.

Representative **HASKELL** of Portland asked the chair to **RULE** if the Bill was properly before the body pursuant to Joint Rule 217.

The SPEAKER: The Representative from Portland, Representative Haskell, Pursuant to Joint Rule 217, has requested a ruling of the Chair. This item will be Tabled pending the Ruling of the Chair. Is this the pleasure of the House? It's a vote.

Subsequently, the Bill was **TABLED** by the Speaker pending a **RULING OF THE CHAIR**. (Roll Call Ordered on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report).

Representatives:

TREAT of Hallowell
PRIEST of Brunswick
BEAUDOIN of Biddeford
LEGG of Kennebunk
MORRISON of South Portland
GOODE of Bangor
BECK of Waterville
WEAVER of York
FOSEL of Alna

Minority Report of the same Committee reporting **Ought Not to Pass** on same Bill.

Signed:

Senator:

McCORMICK of Kennebec

Representative:

RICHARDSON of Warren

READ.

Representative TREAT of Hallowell moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

On further motion of the same Representative, **TABLED** pending her motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report and later today assigned.

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

On motion of Representative CLARK of Millinocket, the House adjourned at 10:33 a.m., until 9:00 a.m., Tuesday, March 23, 2010 in honor and lasting tribute to Lynda McLean Macalino, of Millinocket and Ronald D. Wing, of Industry.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-748)** on Bill "An Act To Require Insurance Companies To Cover the Cost of Prosthetics" (H.P. 15) (L.D. 20)

Signed:

Senators:

BOWMAN of York

ALFOND of Cumberland